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# **Securitization in the context of the EU's use of health data during the Covid-19 pandemic in 2020**

**A comparative case study of securitization implementation in the context of the EU's use of personal health data**

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## **Abstract**

This thesis research comes from combining a theoretical problem with an empirical problem. The theoretical problem of this thesis roots from scholars of securitization theory debating the context in which securitization can occur. The original founders of the theory, Copenhagen School, understood securitization can occur in a nation-state environment. This statement was a departure point for the scholars to argue that securitization can and is carried out by international organizations in the role of securitization actors. This brings out the empirical problem of this thesis, which puts the European Union in the role of the securitization actor in the current Covid-19 pandemic. This puts the Member States in the role of the securitization audience. The measure suggested by the European Union for the Member States is processing personal health data to curb the spread of the virus. Furthermore, this thesis aims to look at the securitization implications of the interactions of States and IOs regarding health data. The research question of this thesis is: *To what extent is securitization theory applicable in case of the EU's framing of use of personal health data to curb the spread of Covid-19?"*

This thesis carries out a comparative case study and frame analysis of the relevant documents published by the European Union and chosen Member States. These states are Denmark, Finland, Hungary, Ireland, Lithuania, Luxembourg. Frame analysis of this thesis investigated the role of the European Union as a securitization actor and the role of the Member States as an audience.

This frame analysis showcased that the European Union frames Covid-19 as a threat due to its challenges to functioning society. The argument is that a health crisis ultimately leads to unemployment, economic losses, discrimination, disinformation etc. Therefore, the European Union as a securitization actor strives for more coherent and unified responses. The aim is for the States to follow the GDPR when processing subject's health data and that the States ensure maximum level of safety alongside with following the fundamental human rights. However, within the responses of the States there can be seen levels of fragmentation. This means that although the States all comply to following GDPR when processing subject's data in a state of crisis, all of them do so accordingly to their own judgement. Different states define health data differently, assign the role of data processor to a different entity, and assigns different responsibilities to different stakeholders, such as the state or the employers. This fragmentation comes from not specific definitions by the European Union. These lacking definitions are found within health data, emergency, and data collector/ data processor. This is because of the character of GDPR as a Regulation, which aims to appeal to each State, as all States must comply to it. Furthermore, GDPR has been created and

implemented before the pandemic. This interpretation leads to the States having certain amounts of power, as they can adjust the rules set out from the European Union to their specific conditions. Therefore, the Member States act as an empowering audience, with the power to adjust the measures to their national judgements and they get to influence the decisions made by the European Union.

The answer to the research question is that securitization is largely possible in the context of the EU, however it leads to different reactions within the Member States. There is considered fragmentation found within how the States approach the processing of personal health data as a securitization response. The EU as a securitization actor owns certain amounts of power and authority and influences behaviors of the Member States. The Member States also influence the way that the EU produces guidelines in the state of emergency.



## Table of contents

<b>1. Introduction</b> .....	1
<b>2. Literature review</b> .....	2
<b>3. Securitization theory</b> .....	4
<b>3.1. Securitization theory definitions</b> .....	4
<b>3.2. Concepts of securitization theory</b> .....	6
<b>3.2.1. Concept of audience</b> .....	6
<b>3.2.2. Concept of actors</b> .....	6
<b>3.2.2.1. International organization in the role of an actor</b> .....	7
<b>3.2.3. Relations between actors and audiences</b> .....	7
<b>3.3. Securitization contexts</b> .....	7
<b>3.4. Securitization threats</b> .....	9
<b>3.5. Securitization issues</b> .....	9
<b>3.6. Securitization theory limitations</b> .....	10
<b>3.7. Theory operationalization</b> .....	11
<b>4. Methodology</b> .....	12
<b>4.1. The research strategy</b> .....	12
<b>4.2. Ontology and epistemology</b> .....	13
<b>4.3. Research strategy criteria</b> .....	13
<b>4.4. Research design – Comparative Case Study</b> .....	14
<b>4.4.1. Comparative case study critiques and limitations</b> .....	17
<b>4.5. Data collection and sources</b> .....	17
<b>4.6. Research method – Frame analysis in institutional context</b> .....	18
<b>4.6.1. Institutional discourse</b> .....	19
<b>4.6.2. Definitions of frames</b> .....	19
<b>4.6.3. Winslow’s frame analysis</b> .....	20
<b>4.6.4. Limitations of the frame analysis</b> .....	21
<b>5. Frame analysis</b> .....	21
<b>5.1. What describes the symbolic foundation of a frame?</b> .....	22
<b>5.1.1. Threat framing – Securitization of the Covid-19 by the EU</b> .....	22
<b>5.1.2. Covid-19 framed as a security threat</b> .....	22
<b>5.1.3. Solidarity vs. fragmentation</b> .....	23
<b>5.1.4. Disinformation, data, and privacy protection</b> .....	24
<b>5.1.5. Extraordinary securitization measures presented by the EU – contact-tracing and health data processing</b> .....	24
<b>5.1.6. Framing of an actor and framing of an audience</b> .....	27
<b>5.1.6.1. The EU as a securitizing actor</b> .....	27

5.1.7.	The Member States as an audience.....	29
5.2.	What describes the symbolic patterns and themes used to weave together a coherent frame? .....	29
5.2.1.	Unification vs. Fragmentation on the EU level .....	30
5.2.2.	Symbol of protection .....	31
5.2.3.	Health data patterns.....	32
5.2.4.	Employers and employees' relationships.....	33
5.2.5.	Symbols and patterns within the documents of the Member States .....	34
5.2.6.	Solidarity .....	34
5.2.7.	Understanding of health data .....	34
5.2.8.	Pattern of the data controller .....	35
5.2.9.	Employer and employee relations.....	36
5.2.10.	Role of the state and role of the EU.....	39
5.3.	What describes the cultural constraints and social situations revealed by the symbolic coherence of particular frames? .....	41
5.3.1.	Cultural constrains and social situations revealed in the documents of the EU.....	41
5.4.	What describes the power relationships produced by a particular frame? .....	46
5.4.1.	Covid-19 as a securitization threat.....	46
6.	Discussion.....	52
7.	Conclusion .....	57
	References .....	58

## 1. Introduction

Within securitization theory, scholars have argued over the fact whether securitization can be done in a context outside of the nation-state.” (Balzacq, Léonard, and Ruzicka 2016) Originally, the securitization theory was founded by the Copenhagen School in 1980s (Balzacq, Léonard, and Ruzicka 2016, 496). Securitization was founded on the premise of understanding security in its performative character, which means to do security. This is done using language. Securitization actors exercise their power through securitizing a threat through a use of an extraordinary measure. (Ciută 2009, 310) Securitizing moves occur in specific contexts. Securitization contexts have proven to be a source of ongoing academic discussions. (Balzacq, Léonard, and Ruzicka 2016, 502) There are views which oppose the Copenhagen Schools’ viewpoint, criticizing this state-centric approach. For example, Wilkinson argues that this leads towards erasing the local interpretations. (Balzacq, Léonard and Ruzicka 2016, 503) Bubandt understands that local political histories of communities are decisive in understanding securitization’s operationalization in each context. (Balzacq, Léonard, and Ruzicka 2016, 503) Davies understands that due to globalization, international organizations became a large factor in securitization. She further believes that international organizations can become securitization actors, which puts them in a specific position of power. (Davies 2012, 311) These disagreements within securitization framework dealing with contexts of securitization, meaning international vs. state-centered, are a theoretical puzzle this thesis aims to work with.

During 2020 the entire world has been hit with Covid-19 pandemic. This pandemic presented the entire world with unprecedented collective challenges. This has been the case in the European Union. In the EU over 12 million people got infected with the virus (European Commission, 2020). Therefore, the EU decided to act, by establishing the States with sets of guidelines which should help the States manage this state of emergency.

One of these measures provided by the EU is for the States to process and use personal health data. The way the EU goes about this is by claiming that in the fight against Covid-19 data can save lives. The European Union issued statements which provide the Member States with guidelines on how this data should be approached (European Union Agency for Fundamental Rights, 2020, 41). All these statements refer to the General Data Protection Regulation (European Parliament and Council of the European Union 2016) a document which specializes on protection and processing of data. However, this document was issued before the epidemic, and therefore, lacks necessary definitions of health data. This thesis aims to

showcase how this led to fragmentation within the Member States' implementing of the securitization measure, which is processing personal health data. Fragmentation because of the EU, an international organization, acting as a securitization actor presents an empirical problem. This is seen as a problem because it undermines the Copenhagen School's state-centric view of securitization context. It is a problem because the EU then is responsible for securitizing the Covid-19 pandemic as a securitization threat, which leads to actions and reactions within the Member States. The environment of the EU and the Member States is culturally, politically, and economically diverse.

Therefore, this thesis aims to carry out a comparative case study on the securitization of Covid-19 by the EU, with the focus on processing personal health data as a securitization measure. This case study will be carried out through frame analysis of relevant documents by the EU, alongside with the relevant documents of the Member States. These states will be Denmark, Finland, Hungary, Ireland, Lithuania, and Luxembourg. This thesis is relevant as it aims to fill out the gaps in knowledge regarding the EU as a securitization actor. It contributes to the academic debate on securitization contexts, as it aims to explore how the EU as a securitization actor approaches securitization in this context. The contribution of this thesis lies within the notion, that at the time of writing this thesis there has not been a study published on securitization by the EU, which would link it to processing personal health data. This thesis aims to understand the power relations between the EU and the Member States, alongside with other conditions like silenced information, and specific framing of an issue. It will investigate different interpretations of the EU's guidelines by different Member States and understand the roles of different stakeholders which processing personal health data includes.

Therefore, the research question of this thesis stands as: *“To what extent is securitization theory applicable in case of the EU's framing of use of personal health data to curb the spread of Covid-19?”*

## **2. Literature review**

The aim of this thesis is to essentially understand securitization theory implemented in the context of the EU's fight with Coronavirus pandemic. This section aims to touch upon issues of securitization at a EU level, global health as a securitization issue and personal health data as a means of taking securitization measures. The purpose of this chapter is to highlight knowledge gaps uncovered in the academic literature, as well as showcase what has been



written on this topic. The themes relevant for this thesis are international securitization, securitization of global health issues, and the processing of health data during the Covid-19 pandemic.

Securitization in international contexts and the securitization of global health issues go hand in hand. Hanrieder and Kreuder-Sonnen (2014) argue that the “*securitization of international problems may equally lead to the internationalization of emergency governance*” (335).

Global security crises need rapid and centralized decisions which leads to creation of exceptionalist authorities, and in the case this role can be played by the international organizations (IOs) and their executive organs. Decisions made by the IOs create agendas for the behaviors of states, whilst in the state of crisis (Hanrieder and Kreuder-Sonnen 2014, 335). Essentially, global health emergencies lead to institutionalizing at the international organization level. It is a natural choice for states to turn towards IOs in a global emergency (Hanrieder and Kreuder-Sonnen 2014, 336). International organizations during such circumstances contribute to settling and legitimizing certain agendas, while also delegitimizing others (Hanrieder and Kreuder-Sonnen 2014, 336). In this context, health issues received growing attention of the IOs because of the dramatic increase in global mobility, which affected emerging global pandemics. (Balzacq, Léonard, and Ruzicka 2016, 503). Handrieder and Kreuder-Sonnen argue that IO’s emergency governance “*is marked by a bureaucratic decision that can itself become a driver of securitization*” (Hanrieder and Kreuder-Sonnen 2014, 331).

There are pros and cons highlighted in literature when it comes to IOs securitizing a health threat. The cons mentioned by Balzacq, Léonard, and Ruzicka (2016) are that such securitization can mobilize inappropriate responses. Securitization has the power to allow governments to devote a disproportionate number of resources to counter a specific threat at the expense of fighting other relevant issues (513). Rychnovska argues that the analysis of securitization in the European Union is very difficult, as it is a complex, politically fragmented socio-institutional environment (Rychnovska 2014, 11). She argues that it is very challenging to relate “*potential securitizing moves to their effects in terms of audience resonance, legitimation, and policy change, and challenges the value of studying securitizations in ‘front stage’ settings, as securitization, to a large extent, occur ‘behind closed doors’*” (Rychnovska, 2014, 11-12). Rychnovska (2014) further carries out analysis of the UNSC as an IO acting like a securitization actor (2014).

Davies' (2008) study "*Securitizing infectious disease*" elaborates on the WHO securitizing infectious diseases, namely the example of SARS pandemic in 2003. This study is on securitization of a global health threat by an IO and will be used in discussion for comparison. This is coming from the notion of the EU as an IO trying to securitize the Covid-19 pandemic.

As this thesis aims to examine securitization of the Covid-19 by the EU through processing health data. Suder argues that "*health data must be given a wide interpretation*" (Suder 2020, 3). Therefore, the argument is that there are inconsistencies between the states when it comes to an interpretation of what information can be categorized as health data (Suder 2020, 4). Newlands et al. argues that health data falls into a category of sensitive data under GDPR and is therefore particularly regulated and requires stricter protections than other types of data (Suder 2020). At the time of writing this thesis there has not been a study carried out which focuses on the use of personal health data as a securitization measure to combat Covid-19. That is where this thesis aims to contribute to the academic literature. Furthermore, research showcased that at the time of writing this thesis, there has not been a study where the EU is put into the role of the securitization actor when imposing measures onto Member States in state of global health emergency.

### **3. Securitization theory**

This thesis aims to understand how the European Union frames the use of personal health data to curb the spread of the Covid-19 virus. Furthermore, it aims to compare different Member States' perspectives on the adoption of these measures suggested by the EU. This thesis aims to use threat framing within securitization theory to attempt an understanding the role of personal data in fighting the global pandemic. It explores the concepts of actors and audiences within securitization theory.

#### **3.1. Securitization theory definitions**

To understand securitization theory, one must first understand the concept of security. The Copenhagen School defines security as "*not an objective condition, but emerges through a particular social processes ... that elevate an issue above the normal political logic: 'if we do not tackle this problem, everything else will be irrelevant because we will not be here or*

*will not be free to handle in our own way*” (Williams 2011, 454). This definition gives security performative character, out of which the securitization theory emerged.

Securitization theory is defined by Balzacq, Léonard and Ruzicka as: “*an articulated assemblage of practices whereby heuristic artefacts (metaphors, policy tools, image repertoires, analogies, stereotypes, emotions, etc.) are contextually mobilised by a securitizing actor, who works to prompt an audience to build a coherent network of implications (feelings, sensations, thoughts, and intuitions) about the critical vulnerability of a referent object, that concurs with the securitizing actor’s reasons for choices and actions, by investing the referent subject with such an aura of unprecedented threatening complexion that a customised policy must be immediately undertaken to block it*” (495). Securitization theory combines the politics of threat with threat management. The term ‘security’ has a performative character as it is used to describe the world and transformative reality. It consists of the security actor, the referent subject, the referent object, and the audience (Balzacq, Léonard, and Ruzicka 2016, 495). The referent subject is defined as the threatening entity, the referent object is the entity threatened (Balzacq, Léonard, and Ruzicka 2016, 495). Concepts of ‘security actor’ and ‘audience’ will be discussed further in their own sections.

Securitization theory was established in the 1980’s by the Copenhagen School, which used this approach to designate the linguistic construction of society issues (Balzacq, Léonard and, Ruzicka 2016, 496). Securitization theory therefore addresses these following questions:

1. “*What makes something a security issue?*”
2. “*What kind of response does it call for?*”
3. “*What are the specific consequences of agreeing that something is a threat?*”

(Balzacq, Léonard and Ruzicka 2016, 496)

In contrast to theories dealing with security, particularly realism or neorealism securitization does not depend on objective features. Rather, securitization stems from interactions between “*a securitizing actor*” and “*its audience*” (Balzacq, Léonard, and Ruzicka 2016, 496).

Securitization closely links to social constructivism, examining the role of language, status of practice and power of argument in world politics (Balzacq, Léonard, and Ruzicka 2016, 496). Specifically, scholars of governmentality provide securitization theory with an analysis of government.

Securitization theory counts on fighting existential threats with exceptional measures (Ciută 2009, 310).

## **3.2. Concepts of securitization theory**

### **3.2.1. Concept of audience**

The Copenhagen School defines the audience as *“those the securitizing act attempts to convince to accept exceptional procedures because of the specific security nature of some issues”* (Balzacq, Léonard, and Ruzicka 2016, 499).

This concept is critical for the securitization theory. It is because researchers assume that securitization theory is an intersubjective process dependent on audience response. (Balzacq, Léonard, and Ruzicka 2016, 499).

When dealing with the concept of audience it is important to understand the concept of a plot. Plots are *“formulated by ‘securitizing actors’, who declare that the particular issue constitutes an emergency, and should be this securitized (what the authors call a ‘securitizing move’).”* (Bright 2012, 863) Audience has the power to accept or reject these plots. (Bright 2012, 863) It is difficult to identify who exactly is the audience of securitization. It can vary from experts to practitioners to the public. There is the concept of an *“empowering audience”* defined as *“the group which can enable the securitizing actor to take the action proposed.”* (Bright 2012, 864)

Audience’s acceptance implies that actors have the power to reflect and come to decisions, and that all security policy is accepted to an extent by all members of society. This assumption is problematic and sometimes is not required. (Bright 2012, 868) Bright argues that *“when there is no relevant audience, rules can be suspended and martial law declared in an instant.”* (Bright 2012, 868) Lastly, the audience can fulfill two different functions, providing moral support and supplying the actor with a formal mandate, such as a vote by the legislature (Balzacq, Léonard, and Ruzicka 2016, 500).

### **3.2.2. Concept of actors**

Security situations could be identified by their creation of special types of politics linked to crisis and emergency, enabling certain actions which would otherwise be unthinkable. (Bright 2012, 863) If this type of security emergency happens, *“an actor has claimed a right to handle the issue through extraordinary means, to break the normal political rules of the game.”* (Bright 2012, 863) A securitizing actor is defined as *“the agent who presents an issue as a threat through a securitizing move”* (Balzacq, Léonard, and Ruzicka 2016, 495). A securitizing actor is dependent on other concepts of the securitization theory. Security of entities come from mutual interactions between the actor and the audience (Balzacq, Léonard,

and Ruzicka 2016, 495). The ‘enabling audience’ empowers the securitizing actor or other necessary authority to act (Balzacq, Léonard, and Ruzicka 2016, 500). Securitizing actors may often try to securitize a threat to ensure survival of the referent object (Balzacq, Léonard, and Ruzicka 2016, 512).

### **3.2.2.1. International organization in the role of an actor**

Davies (2008) suggests that international organizations aim to shape agendas to build their institutional power in global politics (311). This comes out of the notion that international organizations have the power to act independently of what states tell them to do, and their normative agendas can dominate and direct the purpose of states (Davies, 2008, 311). This means that the authority is therefore transferred towards the international organizations, rather than the states. Davies (2008) further claims that “*when states turn to international organizations to conduct tasks, they do not wish to do themselves, a measure of authority inevitably passes from state to institution*” (311). This eventually results in international organizations being able to control the agenda surrounding a specific area. This transfer of authority from a state to an international organization, which can control the relevant information and functions as a recognized authority in a specific area (Davies, 2008, 311-312).

### **3.2.3. Relations between actors and audiences**

Securitization theory gives security a performative character, meaning to do security. There is an important part of the theory which looks at the power relations, as it looks at what security does (Balzacq, Léonard, and Ruzicka 2016, 501). An opinion within the securitization scholars is that securitization enables elites and power holders to deal with an issue in their way (Balzacq, Léonard. and Ruzicka 2016, 501). Securitizing an issue leads to the security actors to increase their power because they have been granted privileges. The audience and actors are interdependent with one another. Actors have the power which needs to be understood by the audience. However, depending on the context the audience can influence actors’ decision-making processes and outcomes (Bright 2012, 865).

## **3.3. Securitization contexts**

Securitization theory works with the concept of security threats, which are socially constructed. This subchapter aims to understand how threats are constructed and in what

contexts can this happen. Different scholars define contexts differently. The Copenhagen School defined context with two forms. “*On one hand, it is synonymous with sectors (political, military, etc.); on the other hand it refers to conditions historically associated with the threat*” (Balzacq, Léonard, and Ruzicka 2016, 502). As this thesis aims to work within the context of securitization in the European Union it is important to understand other contexts than the context of a nation-state. Wilkinson (2016) presents a different context for securitization. He argues that the Copenhagen School presents the context of security as state-centered and universalist. Wilkinson's criticism was following Booth's earlier research on securitization (Balzacq, Léonard, and Ruzicka 2016, 502). According to these critiques state-centrism makes securitization theory merely a traditional approach to security, resulting in securitization's inability to address what happens to “*real people in real places*” (Balzacq, Léonard, and Ruzicka 2016, 503). Critiques about Copenhagen School's state-centric views of securitization link are a crucial departure point for this thesis, as this thesis aims to examine the international contexts. The “*local political histories of communities are decisive in grasping how securitization operates in a given context.* (Balzacq, Léonard, and Ruzicka 2016, 503).” Furthermore, securitization works with “*the semantic repertoire*” which Balzacq understands as “*a combination of textual meaning - knowledge of the concept acquired through language (written or spoken) - and cultural meaning - knowledge historically gained through previous interactions and current situations*” (Balzacq, Léonard, and Ruzicka 2016, 503).

Several scholars examined the role of the context in the securitization processes. The Copenhagen School claimed that “*the performative aspect of security changes, by itself, the configuration of a context*”(Balzacq, Léonard, and Ruzicka 2016, 504). However, later the context gained an independent status, allowing for influencing security articulations in a particular way. Balzacq argues there are internalist and externalist views of the context (Balzacq, Léonard, and Ruzicka 2016, 504). The externalist view argues that the meaning of security is dependent on the context, meaning that security is shaped contextually. He argues that based on the context some actors will have exceptionally good positions to articulate a security discourse. Therefore, context “*empowers or disempowers actors*” (Balzacq, Léonard and Ruzicka 2016, 504).

The internalist view understands context as “*a speech act reworks or produces a context by the performative success of the act.*” (Balzacq, Léonard and Ruzicka 2016, 504). Currently securitization scholars tend to focus on the externalist context in their analysis of securitizing moves. Notably, most current context effects still focus more on categorizing the context's

components over a systematic exposition of precise features across different contexts (Balzacq, Léonard and Ruzicka 2016, 504). Importantly, the context correlates to the concept of political regimes and whether they are relatively liberal, as there are different threats in different regimes. This thesis will use external context to provide a better overview of the actors' role in the securitization.

### **3.4. Securitization threats**

Securitization theory mainly works within threats that can be found on a macro-level, for example a pandemic, acts of terror or environmental issues (Rychnovska 2014, 9). Later in the analysis it is showcased why the pandemic presents a threat to the It is therefore important to understand how different threats are framed in different environments. Securitization theory provides the understanding of threats as situated social practices (Rychnovska 2014, 18). In security processes “*threats become represented and recognized*” (Ciută 2009, 306). Threat and survival are essential words of securitization theory, alongside with the discourse of exceptional measures. (Ciută 2009, 310). Threats, forces, actors and processes and issues can all be securitized (Ciută 2009, 311). Within securitization theory a threat is ultimately a threat when it endangers survival of an actor (Ciută 2009, 311). The word threat is linked to fear, which leads to securitization (Ciută 2009, 311). In other words, a threat may exist but because the issue is presented as a threat it is being securitized (Ciută 2009, 311). The Copenhagen School argues that threats are different in different contexts (Ciută 2009, 313).

### **3.5. Securitization issues**

According to Floyd, “*securitization theory focuses on how security threats are politically and socially constructed, rather than on what kinds of security threats objectively exist*” (Floyd 2011, 427): Floyd (2011) argues that for an issue to be securitized it must be morally right. She further determines three criteria which this issue needs to fulfill to become a securitized issue. Firstly, she claims that “*there must be an objective existential threat*” (428) which she distinguishes as an endangering threat to survival of an actor. Secondly, she claims that “*the referent object of security must be morally legitimate, which is the case only when the referent object is conducive to human well-being defined as the satisfaction of human needs*” (428). Lastly, “*the security response must be appropriate to the threat in*

*question, which as to say that the security response must be measured in accordance with the capabilities of the aggressor and the securitizing actor must be sincere in his or her intentions”* (428) Floyd further claims that when an issue is framed in a security mode the actor must issue a warning to the security subject and promises some type of relevant protection (Floyd 2011, 430). Considering this, it is important to understand what kind of issues can be considered security issues. Securitizing an issue means different things in different contexts, and for the purposes of this paper this will be narrowed down to global health as a security issue.

Securitization has benefits of raising public awareness of a specific issue. This means securitization allows for a broader recognition of the devastating effects of a problem like a global pandemic, which results in more commitment in resources to ledge the pandemic (Balzacq, Léonard, and Ruzicka 2016, 521). However, securitization can also lead to large state involvement, which can complicate the roles of other factors. Generally, when using securitization theory in regard to global health issues it is relative to the situated-ness of the audience conditions and referent objects. Furthermore, the acceptance of the issue relies on the audience's context in which this issue is securitized (Balzacq, Léonard, and Ruzicka 2016, 513).

### **3.6. Securitization theory limitations**

As this theory is interpretative and deals with language it is more susceptible to biases. Secondly, the limitation could be seen within the choice of my data as these are official documents and not speeches. Securitization deals with language and threat framing, and this thesis argues that this can still be done in a written way. I am aware that written official material presents for less dynamic interactions than spoken word. However, I believe that the use of written language has its advantages. It can still show the extent of unity of securitization within the EU and the chosen member states. Threat framing is still present in written language. Moreover, it better focuses on roles of different stakeholders and presents the relationship of a State towards the EU. Further limitations come from the EU's character as an IO. This means that the EU has limited powers when giving out directions and measures that States ought to respect. This comes from the nature of the EU, which means it is a very diversified environment, culturally, politically, and economically.



### **3.7. Theory operationalization**

This thesis is necessarily dealing with threat-framing Covid-19 and use of personal health data by the EU and the Member States. To carry out the frame analysis I chose to use securitization theory. Securitization theory is dealing with performative security, meaning how is an issue framed to become a security issue. Firstly, one of the reasons for choosing this theory is the fact it combines the politics of threat with threat management. This is precisely what will be analyzed in the analysis chapter. Threat framing is key in providing a nuanced answer to this thesis' research question. Security practices are closely linked to threat framing. In this thesis I aim to analyze these, and how are they framed by the EU and the Member States.

Securitization focuses on the relationships between actors and audiences. As mentioned previously, this thesis is aware that the audience-actor relationship is not as dynamic as it would be in the case of spoken language. However, the adoption of the European ideologies and ideas by the Member States are still puzzling. The EU in this case acts as an IO in the position of the securitization actor. The aim of this thesis is to understand to what extent the chosen States follow the legislation proposed by the EU, what is the role of the EU and what is the role of the nation-state, and other likely stakeholders. The argument of actor-audience relationship is supported by the argument of downloading Europeanization. This is concept is used to provide theoretical background towards States implementing/not implementing specific securitization measures suggested by the EU.

Within securitization theory there is an ongoing academic debate regarding securitization contexts. This paper aims to understand to what extent it is possible for this theory to be carried out in European context. This is done based to either prove or disprove state-centrist critiques. As it is argued that security is shaped contextually, this thesis aims to understand whether it is possible to carry out securitization in European setting. Moreover, the externalist views of contexts are applied. This means that securitization is dependent on the context and is contextually shaped. In this case this would mean the context is international/global.

Moreover, it will be examined whether and to what extent context empowers or disempowers actors, which in this case is the EU.

To do this, this thesis will be looking at the securitization measure of processing personal health data presented by the EU to the Member States. This will be compared with the Member States. What this will do is show whether the approaches of the Member States synchronize with the approaches of the EU, or whether they differ. This thesis will

understand the roles of different stakeholders in the context, relevant to securitization of Covid-19 and personal health data processing as a measure. This means, that the role of the EU will be examined as an actor, and the role of the Member States will be examined as audiences. It will be examined what kind of audience the Member States are, and how they approach threat-framing done by the EU. Different patterns and different symbolic roles will be also examined as results of implementation of securitization by the Member States.

#### **4. Methodology**

This chapter provides the methodology behind this thesis. It aims to answer my research question, which states: *To what extent is securitization theory applicable in case of the EU's framing of use of personal health data to curb the spread of Covid-19?* The methodology section aims to state the ontological and epistemological standpoints of this thesis. It further aims to discuss this thesis research strategy, research design and research methods used in the thesis. Each part is followed by a critical assessment accounting for likely points of criticism. The purpose of this is to ensure scientific objectivity and to prevent subjective biases.

##### **4.1. The research strategy**

The aim of this thesis is to answer the aforementioned research question. An appropriate research strategy has been established to answer the research question. The research strategy of this thesis lies within qualitative data. Qualitative research strategies usually emphasize language and its interpretation. (Bryman 2012).

Although this thesis is based on qualitative data, it will approach analysis deductively. This is due to the choice of theory and concepts. Securitization theory is a pre-existing theory, working with already-established concepts. The deductive approach allows this thesis to operate with pre-established theoretical concepts which are a part of securitization theory. Moreover, this allows to carry out frame analysis of the qualitative data which in this case is the official documents of the EU and the chosen Member States. These states are Denmark, Finland, Hungary, Lithuania, and Luxembourg. The deductive approach also assumes that some critical concepts will be present in the data based on the literature which dealt with similar concepts in the past (Azungah 2018). This had led to choosing the aforementioned empirical and theoretical puzzles of this thesis. Theoretical puzzle relates to international organization in the role of securitization actor. This is done as it is argued amongst scholars whether securitization is state-centric or not. The empirical puzzle relates to different

approaches of the Member States to securitization measure presented by the EU, which is processing of personal health data. Research question was formulated based on this. Deductive approach has limitations, as the conclusions of deductive reasonings are tied closely to the truthfulness of the premises and clearly defined terminology (Streefkerk 2019).

#### **4.2. Ontology and epistemology**

The ontological standpoint of this paper lies on the crossroads of constructivism, and poststructuralism. This is narrowed down to securitization theory deals with conceptualization of threats and security. Thus, the collective understanding of a ‘threat’ is not merely based on a correlation between discourse and reality. Rather, securitization theory relates to how language and mind impact the external world on regulating the context of the two. (Balzacq, Léonard and Ruzicka, 2016, 519) Furthermore, the epistemological issues are interpretative, as the objective and subjective components of securitization are linked to one another. The epistemological standpoint of this thesis is interpretative as I aim to look at documents which are analyzed by using frame analysis. The knowledge in this paper is contextual, paying attention to contexts and concepts of securitization.

#### **4.3. Research strategy criteria**

There are criteria which are to be followed within research in social sciences. These criteria are namely reliability, replicability, and validity. Reliability and validity are concepts which evaluate the research quality. Reliability refers to consistency of a research method when it aims to measure something. In case that the same result can be consistently achieved using the same methods under the same circumstances the measurement is considered reliable (Middleton 2019). In social sciences, these measures are concepts, and it examines whether they are consistent. (Bryman 2012, 47-48). Replicability is important in academic research as results which are consistently replicated are likely to be true or equal, which is important for avoiding publication biases. Replicability does not equal replication. (Bryman 2012, 47-48). Rather, replicability focuses on details in the study/research, to ensure possible future replication. (Bryman 2012, 47-48). Lastly, validity refers to the levels of accuracy of a measure (Middleton 2019). Measurement validity refers mostly to quantitative research and to the search for measures of social scientific concepts. It is concerned with how well a measure which is devised from a concept measures or reflects upon the theoretical concepts

(Bryman 2012, 47). Internal validity understands casualty of the relationship between the dependent and independent variables (Bhattacharjee 2012, 35-36). External validity understands the levels of generalizability and whether results of a specific research can be generalized beyond the given context (Bryman 2012, 47). Ecological validity understands whether conclusions from social scientific research can be applied to people's everyday social settings (Bryman 2012, 47).

This thesis has ensured its credibility through different means. Firstly, the beginning of this thesis has rooted in pre-existing academic literature which was published on the matter. This is elaborated on in the *Literature review* chapter. Secondly, this thesis uses triangulation. Triangulation in qualitative research design is used to identify, explore, and understand different dimensions of the units of study. This strengthens the findings and enriches the interpretations (Given 2008). Furthermore, this term refers to when a researcher uses more than one method and/or source of the data applied in the research it results in more confident findings, making the research more credible (Given 2008). In the case of this thesis the independent variable is a global health threat of Covid-19, which has been securitized by the EU and framed as a health and security issue. The dependent variable would in this context be the implementation of the EU securitization measure, which is processing of personal health data by the Member States, and the differences/similarities within the states' implementation.

The aim of this thesis is not to provide a generalization, as this issue is rather new and specific. It is rather to begin the discussion of how and why the EU securitizes an issue like this, and how does it look like within states' implementations.

#### **4.4. Research design – Comparative Case Study**

This thesis is based on a comparative case study design, as it aims to understand how the securitization of Covid-19 by the European Union affected the legislation of the Member States regarding data security policies. Comparative case studies cover two or more cases in a way that produces more generalizable knowledge about how and why specific programmes or policies work or fail to work. Comparative studies take place over time and emphasize comparison within and across different contexts. They are chosen when it is not possible to choose an experimental design and when it is necessary to understand and elaborate how different attributes within the context influence the success or fail of a specific programme or policy initiatives. They are often used with qualitative research methods (Goodrick 2014, 1).

The cases have been taken based on regional position of the states, and the accessibility of their documents in English. The EU has facilitated GDPR law before the pandemic in 2020. The aim of this paper is to understand the securitization of Covid-19 by the Member States regarding use of personal data processing. This is done through observing different roles of different stakeholders within their national government statements. For this thesis, the following states are chosen Denmark, Finland, Hungary, Ireland, Lithuania, and Luxembourg. They have been chosen as the documents of these countries were published in English, alongside with their geographical position, meaning that Denmark and Finland are Northern Europe, Hungary and Lithuania are Eastern Europe and Luxembourg and Ireland are Western Europe. I have not chosen a state from Southern Europe as I do not speak the languages needed, and they did not publish their documents in English. I have chosen more representative cases, rather than extreme cases. (Flyvbjerg 2006, 229). The specific purpose of these cases within the research framework of this thesis is to find out whether there is consensus or disagreements within the policy comparison. This further relates to the understanding that for securitization to be carried out in a transnational context there must be similarities within threat framing. Threat framing in this context means whether this issue is framed as health issue vs. a security issue. It is important to understand who the referent subject and who the referent object is. Moreover, framing of securitization measures is important too.

To understand this, I have chosen the most-similar system within the comparative case studies. I have chosen this strategy for numerous reasons. Firstly, this strategy is predicated on comparison of similar cases which differ in their dependent variable, or two similar systems or processes are producing rather different outcomes. It is crucial to understand why. Comparing similar cases bringing out different outcomes will make it easier for the researcher to be in control of factors which are not the causal agent. This means that cases imply several control variables, which are similar, but they also differ in other variables (Streefkerk 2019). In this case I aim to look at the mentioned Member States – which all have in common their membership in the EU, the securitization of the Covid-19 as a health and/or security issue, compliance to GDPR, and focus on democracy and human rights. My comparative case study will therefore be done on a macro-meso level, from the EU to the Member States.

Furthermore, to ensure the comparative case study reaches its full potential of nuancing and sustaining the analysis, the researcher should follow the logic of a replication design. This means that each case must be carefully selected “*so that it either predicts*

*similar results (a literal replication) or predicts contrasting results but for predictable reasons (a theoretical replication)*” (Yin 2003, 47). The cases for this thesis have been selected to conduct a theoretical replication. This is based on the prediction that although these chosen Member States share similarities, they are also different based on their geographical, economic, political, and cultural backgrounds (Yin 2003, 53). Comparative case studies tend to be easier to generalize from and their results are more compelling than the results taken from single case studies (Yin 2009, 53).

One of the main reasons for a comparative case study is that the examination of these cases through application of identical methods allow the researcher a better understanding of the social phenomena researched (Bryman 2012, 72). Comparative case studies further improve theory building. Even though this thesis does not aim to build theory and aims to work deductively, a comparative case study research design is still chosen. The main reason why is that the comparison of the chosen cases will leave the researcher in an easier position to understand under which circumstances the theory can be implied or not. Comparative research design can further potentially create new proposals of new concepts which may be relevant for the theory used (Bryman 2012, 74).

As previously mentioned, this thesis aims to work deductively. It should be mentioned that this comparative case study is characterized as an interpretative case study, as it is driven by an interest in the cases rather than an interest in formulation of theory (Lijphart, 1971, 692). This means that an interpretative case study makes explicit use of pre-established theoretical presumptions. Interpretative case studies apply in a pre-existing theoretical generalization to the given cases. They aim to explore and understand the cases rather than improving and developing generalizations (Lijphart, 1971). In the case of this thesis the aim is to conduct an evaluative study. This means this thesis aims to evaluate the extent of securitization present in the relevant documents, the similarities, and differences between the Member States’ approaches to Covid-19 crisis, the different/ similar approaches to health data, health crisis, privacy, protection, and security. To carry out this analysis it is therefore needed to choose smaller units within the cases to complement the overall study (Yin 2009, 42). The analysis in this thesis will include the examination of smaller units of the cases organized in the categories of the research method, qualitative content analysis with a view to understand how these categories contribute to overall examination of the research question.

#### **4.4.1. Comparative case study critiques and limitations**

The comparative case studies have limitations that one should be aware of. Firstly, the risk of case studies is that they can suffer from subjective biases. This is because they are not necessarily conducted using scientific methods in their literal sense. (Flyvbjerg 2006, 234) The case study design leaves more room for the subjective judgement of the researcher than other designs. Therefore, the researcher should make sure that the research criteria of credibility, transferability, dependability, and confirmability are met (Bryman 2012, 46-69). Furthermore, another likely critique is relevant to employing the embedded approach to case study design. The embedded approach involves the risk that the analytical findings of the study might focus on the subunit level, therefore unable to return to the larger units of the analysis (Yin 2003, 45). On the other hand, the cases chosen for this thesis are highly complex and because the theoretical approach of the thesis entails smaller, categorical units to be examined, the thesis will naturally require a discussion of how the subunits relate to one another. This must be done to examine the cases from a bigger picture to provide a nuanced answer to the research question.

#### **4.5. Data collection and sources**

This thesis draws both on primary and secondary data. The primary data collected for the purpose of this paper involves official documents in form of different official Member States reports. This includes the reports on Covid-19 and contact tracing in form of official documents of the following Member States: Denmark, Finland, Ireland, Hungary, Lithuania, and Luxembourg.

These documents present different Member States views on the issue of Covid-19 pandemic and the use of personal/health data to curb the spread of the virus. Documents chosen for Denmark are “*Information about processing of your personal data*” by “Statens Serum Institut alongside with “*Covid-19: Guidance for Employers in Denmark*” by Mia Boesen and Søren Pedersen. Both documents were published in 2021 and present needed guidelines for processing personal data, contact tracing and roles of different stakeholder. The documents used for Finland are “*Data protection and limiting the spread of Coronavirus*” which was published in 2020 by Office of the Data Protection Ombudsman. For Hungary, the chosen document is “*Information on processing data related to the Coronavirus epidemic*” published in 2020 by “Nemzeti Adatvédelmi és Információszabadság Hatóság” which translates to Hungarian National Authority for Data Protection and Freedom of Information.

For Ireland the chosen documents are: “*Data Protection and Covid-19*” and “*Commonly Asked Questions about the Basics of Data Protection*” both published in 2020. For Lithuania, the document “*Personal Data Protection and Coronavirus Covid-19*” was chosen. This was published by State Data Protection Inspectorate in 2020. Lastly, for Luxembourg the chosen documents are: “*Coronavirus (Covid-19): Recommendations by the CNPD on the Processing of Personal Data in the Context of a Health Crisis*” published by Commission Nationale Pour La Protection Des Données in 2021.

For the perspective of the EU these documents were chosen: Regulation “(EU) 2016/679 *General Data Protection Regulation*” and “*Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions – Building a European Health Union: Reinforcing the EU’s resilience for cross-border health threats.*” This document was published in Brussels in November 2020. Last document analyzed is “*Coronavirus Pandemic in the EU – Fundamental Rights Implications*” published by European Union Agency for Fundamental Rights, 2020. It was published in Luxembourg and it is a publication of Publications Office of the European Union. Furthermore, additional documents were used to support the arguments of the European Union. These documents are: *Annual Report 2020* by European Data Protection Supervisor, *Guidelines 03/2020 on the Processing of Data Concerning Health for the Purposes of Scientific Research in the Context of the Covid-19 Outbreak* by European Data Protection Board, and *Statement on the Processing of Personal Data in the Context of the Covid-19 Outbreak*.

Due to the current pandemic situation, it is difficult to get in contact about this topic with the relevant authorities. National statements were the most credible sources. If there was the opportunity to carry out the research again, I would have aimed to access personnel employed by the relevant institutions and conduct interviews with them about possible implications of these statements. Moreover, I would ask directly about certain issues being silenced and not spoken about, alongside with definitions which are relevant but missing. Official national and European reports/legislation is a more reliable source than observing a speech by local politicians, showcasing the bigger picture of this securitization measure.

#### **4.6. Research method – Frame analysis in institutional context**

This thesis aims to combine discourse of institutions and organizations with frame analysis. This thesis analyses the use of institutional language in institutional context. It is done in macro-meso context because it considers European law implied in the context of the Member



States. In the analysis the extent of securitization in these documents alongside with different approaches to Covid-19 pandemic presented by different Member States will be examined. Therefore, it is critical to understand the concept of institutions/ institutional discourse.

#### **4.6.1. Institutional discourse**

Institutions and their operations have been objects of scientific research. Language is the key component of creating institutional social reality. Institutional language is when at least one of the participants is oriented towards achieving a specific goal. Institutional language is usually goal oriented, meaning that participants aim to achieve a specific goal. Institutions attempt to legitimize their own interest and existence through discourse. This allows for recontextualizing of social practices. (Simpson and Mayr, 2010) In democratic systems, *“the power of institutions needs to be legitimized and justified in order to be accepted for people”* (Simpson and Mayr 2010).

Simpson and Mayr (2010) argue that the concept of institution is difficult to define, however usually links to the nation-state. It is often defined as a socially legitimate expertise together with those persons authorized to implement it. The concept of an institution directly links to power, as institutions can enforce measures and their effectiveness. Institutional discourse is key to understand in this thesis, as the aim of this thesis is to analyze legislations and official statements. This is to understand threat framing in the institutional discourse, which has been chosen to analyze in the case of this thesis (Simpson and Mayr, 2010).

#### **4.6.2. Definitions of frames**

This thesis aims to carry out a frame analysis of the documents presented by the EU and the EU Member States. According to Winslow, *“frame analysis offers a theoretical, methodological, and critical tool for exploring processes of and influence among governmental and social elites, news media, and the public”* (Winslow 2018, 2). A critical part of frame analysis is the concept of frames. A frame is defined as *“a socially shared organizing principle that works symbolically to shape democratic discourse and influence public opinion by creating and promoting particular vocabularies”* (Winslow 2018, 2). In other words, a frame helps the audience to construct perception and interpretation (Johnston 1995, 218). In an interpretative context frames are problem-solving schemata used for the task of making sense of presenting situations. Frames shape public opinion through the alluring use of symbols and often end up influencing legislative and public policy decisions

(Winslow 2018, 2). This means, that frames allow for mental shortcuts. “*By turning a fragmented symbolic resources into coherent organizing schemata, frames can transform complex political, social, cultural and economic issues into manageable, chunk-able thought structures*” (Winslow 2018, 3). Frames impose a specific logic on an audience and foreclosing alternative perspectives in subtle ways. Winslow (2018) argues that the framing processes might sometimes appear as deliberately made by elites, which can be seen as manipulative and with a selfish interest in mind. However, this is not the case (3). Winslow (2018) claims that “*frames are not targeted at a referential, static, and passive audience*” (3). In other words, frames are dynamic, and they must extract from their appeal from pre-established cultural narratives, symbolic traditions, and social operations (Winslow 2018, 3).

#### **4.6.3. Winslow’s frame analysis**

Winslow (2018) distinguishes four questions within the frame analysis. Firstly, he poses the question “*what describes the symbolic foundation of a frame?*” (3). He understands this question coming from the view that frames are showcased in symbolic expressions. Therefore, he argues researchers begin by looking for specific vocabularies in the relevant documents. There are symbols which are creating patterns, allowing for positioning a set of symbolic resources within language of the documents (Winslow 2018, 3). Researcher begins by identifying and visual/and or verbal symbols that come together to create a specific set of vocabularies (Winslow, 2018, 3).

Secondly, Winslow (2018) asks “*what describes the symbolic patterns and themes used to weave together a coherent frame?*” (3) In this thesis case, this means that frame analysis focuses on the language used within the actors and audiences. Some of the become frames. When these symbols cohere strongly enough for an enough time, they can lift an isolated event into a larger narrative. It is recommended for the researcher to look for consistency, durability, and lasting powers (Winslow 2018, 3). If symbols cohere strong enough for enough period, it is possible to lift an isolated event, issue, or a person into a larger narrative (Winslow, 3, 2018).

Thirdly, there is the question “*what describes the cultural constraints and social situations revealed by the symbolic coherence of particular frames?*” (Winslow 2018, 3) This means that frames are created by a series of strategic decisions made by the authorities, in this case the actors. These decisions put an abstract issue, like for example health data, in a concrete context. This is done in a way to resonate with an audience. It is also important to look at absences and silences to what is said and what is not (Winslow 2018, 3).

Lastly, “*What describes the power relationships produced by a particular frame?*” (Winslow 2018, 4) In other words framing is an exercise of power. Frames are often constructed in the social and institutional service. Frame analysis focuses on whose interests are being served by specific production of frames. Frame analysis explores accepting one frame and not another (Winslow 2018, 4).

#### **4.6.4. Limitations of the frame analysis**

This comparative case study aims to understand and evaluate different frames present in the official documents of the EU and the Member States. This is to gain perspective and compare the levels of securitization practices throughout the EU. However, I am aware that the primary focus of frame analysis lies in analysis of rhetoric and thus spoken discourse. However, I argue that frames can be present in written institutional discourse. Furthermore, as this is an interpretative research method, I am aware of the subjective interpretative biases.

### **5. Frame analysis**

This chapter aims to carry out a frame analysis of the documents chosen for the Member States were mentioned in the methodology section. These are official documents of the states Denmark, Finland, Hungary, Ireland, Lithuania, and Luxembourg. It will be divided into four main subchapters. The analysis chapter will follow Winslow’s (2018) four questions which construct frame analysis. The questions follow as:

1. *“What describes the symbolic foundation of a frame?”*
2. *What describes the symbolic patterns and themes used to weave together a coherent frame?*
3. *What describes the cultural constraints and social situations revealed by the symbolic coherence of particular frames?*
4. *What describes the power relationships produced by a particular frame?”* (3-4)

These questions will aim to answer the main research question *To what extent is securitization theory used in case of the EU’s framing of use of personal health data to curb the spread of Covid-19?*

## **5.1. What describes the symbolic foundation of a frame?**

### **5.1.1. Threat framing – Securitization of the Covid-19 by the EU**

This subchapter aims to understand what the symbolic expressions in the documents published by the EU are. It aims to look for specific vocabularies in the documents. Moreover, this subchapter looks for symbols, which are creating patterns, allowing for positioning a set of symbolic resources within language of the documents (Winslow 2018,3). It understands symbols as verbal, coming from Winslow's definition where he claims symbols can be verbal and or visual (Winslow 2018, 3). This subchapter's aim is to understand how the concept of threat is framed and how the responses and measures are framed. Furthermore, it aims to understand the roles of actors and audiences These frames are built on symbolic constructs, which will be deconstructed in the second sub chapter. This subchapter operates from the viewpoint that Covid-19 pandemic is securitized by the EU. It will be explained how securitization of Covid-19 pandemic is done, what the measures are, who is the actor and who is the audience.

### **5.1.2. Covid-19 framed as a security threat.**

*“Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions”* frames the issue of Covid-19 as a security issue. To be precise, the EU frames health as a necessity for the society and economy to function, and the pandemic is a direct threat to this (European Commission, 2020, 1). This is backed up by a statistic claiming that from November 2020 over 50 million people along the globe has been infected, and out which 12 million were in Europe. The measures taken to prevent the spread of the virus have had direct impact on the citizen's freedoms, livelihoods, and their jobs (European Commission, 2020, 1) The EU's way of framing the pandemic goes towards a security threat. This is as Covid-19 pandemic has been framed as personal, professional, social, and economic threat. (European Commission, 2020, 21). Covid-19 as a security threat is therefore framed as a direct threat to survival of citizens, therefore requiring for specifically defined measures. Furthermore, it is a security issue as it directly links to fundamental human rights (European Union Agency for Fundamental Rights, 2020, 5). The pandemic results in shutting down many sectors of the economy in the EU. The lockdown measures have direct influence on areas like tourism or catering, alongside with industrial production. Due to Coronavirus pandemic, there has been increased unemployment (European Union Agency for Fundamental Rights 2020, 9). Due to

the pandemic circumstances, EU Member States resulted in reintroducing control at their internal borders within Schengen Borders (European Union Agency for Fundamental Rights 2020, 9). Particularly vulnerable groups within the EU society have been impacted too, as people with disabilities, elderly population and Roma communities are specifically vulnerable to the spread of the virus (European Union Agency for Fundamental Rights 2020, 9). Generally, Covid-19 has proven to be endangering populations in the EU and is therefore framed as a survival threat which needs to be combatted accordingly.

### **5.1.3. Solidarity vs. fragmentation**

Framing of securitization in the documents showcases the importance of coherence and coordination within the response of the EU's Member States. It further discusses the effects caused by non-coordinated responses and fragmentation. The EU claims that the pandemic has demonstrated the need for a coordinated EU level action. This means that the EU must strengthen the EU's preparedness and response capability for new and emerging cross-border threats to human health (European Commission 2020, 1). The EU recognizes that there was lack of coordination, and too much fragmentation within the reaction to the pandemic. This presents a threat to the security of the EU as it directly threatens the functioning of the EU, and the goal which is to create a stronger EU to combat the cross-border health threats (European Commission 2020, 1) Solidarity is framed as crucial for the right operationalization of the EU. It has inspired the EU's response, as since 1<sup>st</sup> of February EUR 5.9 billion have been relocated to support health systems and actions in EU Member States (European Commission 2020, 1). The EU claims that: *“Public health measures need to be consistent, coherent and coordinated to maximise their effect and minimise the damage for people and business alike. The health situation in one Member State is contingent on that of others. Fragmentation of effort in tackling cross-border health threats makes all Member States collectively more vulnerable”* (European Commission 2020, 2). EU solidarity mechanisms were offered to resolve issues with contact tracing but were not extensively used. The EU claims that such inequalities *“when dealing with an identical threat, which threatens all of us, cannot be maintained”* (European Commission 2020, 3).

The EDPS works closely with European Data Protection Board, the relevant bodies and the EU institutions and agencies to protect individuals and their personal data (European Data Protection Supervisor 2021, 22). Lack of solidarity means that the EU's goal to provide a strong authority is directly threatened. Fragmentation within EU means weaker EU, which

means individual weaknesses of the Member States are more likely to present a bigger issue (European Commission 2020, 2).

#### **5.1.4. Disinformation, data, and privacy protection**

Disinformation, privacy, and data protection are framed as another security issues coming from framing Covid-19 as a security threat. Given the crisis which Coronavirus presents to the EU, it is essential to provide reliable and trustworthy data and information (European Union Agency for Fundamental Rights, 2020, 37). Disinformation spread by individuals or occasionally by politicians around the pandemic is widespread across almost all Member States. During the time which limits the daily freedoms of citizens disinformation can have severe consequences. Disinformation can also lower citizens' trust towards authorities and institutions. Therefore, the EU advises the Member States to address any sort of disinformation as quickly as possible through the highest level of government, partnered with private companies and media professionals (European Union Agency for Fundamental Rights 2020, 37). Issues of disinformation go beyond health security, and therefore are framed as public security threats. It is because disinformation can lead to public disobedience. Disinformation threatens the citizens' trust in the institutions, which does not link to survival per se, but it endangers the functioning of the EU. Moreover, the vulnerable population to the virus which is elderly citizens are more prone to disinformation due to their lack of access to technology (European Union Agency for Fundamental Rights, 2020, 37). As these threats are framed as serious, they call for variety of measures and responses. For this thesis processing of personal/health data presented by the EU is the one measure which will be focused on. These are all macro-level threats, meaning that these are present amongst all the States and threaten the functioning of the EU to different extents.

#### **5.1.5. Extraordinary securitization measures presented by the EU – contact-tracing and health data processing.**

When security of an actor is endangered, it calls for implementation of extraordinary measures. In the case of the thesis, other measures like social distancing will be disregarded and it will be solely focused on processing health data as a securitization measure. The EU frames processing health data as a measure which can save lives (European Union Agency for Fundamental Rights, 2020, 41). Data protection is put at the forefront of responses to the pandemic (European Union Agency for Fundamental Rights, 2020, 41). It is a measure chosen as the most effective. Arguably, the EU publishes a quote which states that: "*Asking*

*people to choose between privacy and health is, in fact, the very root of the problem. Because this is a false choice. We can and should enjoy both privacy and health*” (European Union Agency for Fundamental Rights, 2020, 41). This quote is from Harari, from March 2020. Health/personal data processing is framed a securitization measure for its effectiveness and opportunities it provides. These are namely how fast contact-tracing can be done and its effectiveness in comparison to other contact-tracing methods. However, these measures allowing for processing such sensitive data are framed by only applying in the time of emergency. After the emergency is over, all public data must be treated accordingly to ordinary procedures (European Union Agency for Fundamental Rights, 2020, 41). *“All EU data protection authorities (DPAs) issued statements and/or opinions linked to the Coronavirus pandemic, providing guidance to public authorities, employers and the media on how to uphold data protection standards in their efforts to combat COVID-19”* (European Union Agency for Fundamental Rights, 2020, 12). Furthermore, the health data is framed as *“In fight against Covid-19, data can save lives”* (European Union Agency for Fundamental Rights, 2020, 41). Notably, the EU shares a quote from the Global Privacy Assembly Committee about Coronavirus pandemic, claiming that the use of data in the public interest provides the protections the public expects (European Union Agency for Fundamental Rights, 2020, 41). The use of this quote highlights how processing of health data is the most effective measure to be used against the pandemic. As mentioned previously, processing of personal health data can play a major role in contact tracing. The EU claims that contact tracing can play a critical role in all phases of the outbreak, *“especially as part of containment measures during de-escalation scenarios”* (eHealth Network 2020). Traditional contact tracing is carried out manually, by relevant public health authorities. This process is known to be time-consuming, requiring interviewing cases to find out who they remember being in contact with within the last 48 hours before symptoms were present and/or to the point of diagnosis and self-isolation. This process’ largest disadvantage is its reliance on subject’s memory. It can only trace the subject remembers being with, and not those who have been in contact with them and are unknown (eHealth Network 2020). Therefore, contact tracing carried out via use of personal health data is much more efficient and faster. This means that it can identify more contacts and speed up the general process substantially. These methods could reach over 50 percent of the population (eHealth Network 2020). Creating contact tracing apps and use of health data deployed correctly *“could contribute substantively to containing and reversing its spread”* (eHealth Network 2020). The EU’s effort is for the Member States to return to normal life without any harm of fundamental rights and freedoms. Digital health

tools are framed to have significant and growing role to play in curbing the pandemic. Therefore, implementation of common approach to contact tracing across the EU is the first important step forward. Processing of health data is a measure directed towards Member States public health authorities (eHealth Network 2020).

The EU ensures safe processing of personal data by their collaboration with other relevant institutions, such as the Global Privacy Assembly, the European Data Protection Board, the Council of Europe, and other institutions. The EU emphasizes that there is the need for personal/health data protection principles being embedded in law. They ought to be necessary and proportionate (European Union Agency for Fundamental Rights 2020, 37). Another important question which the concept of securitization measure presents is whether it is a legitimate measure to be taken. The EU argues for the processing of personal data/health data as it goes hand in hand with protection of the public health (European Union Agency for Fundamental Rights 2020, 41). However, this data needs to be handled accordingly to the principles which are set out by the EU. This is because the EU considered data processing in the context of employment, in which “... *data protection must not be jeopardized by emergency measures, although appropriate derogations may apply*” (European Union Agency for Fundamental Rights 2020, 42). The legislative proposals from the EU agree to processing of personal data if it happens with full compliance with the EU data protection rules. This allows for an effective and comprehensive protection and processing of health data (European Commission 2020, 3).

The EU has published GDPR with the intention to show the Member States how to process different types of data. For this thesis, it is critical to understand how health data is framed in this document. GDPR definitions of health data are listed in the Appendix 1. (Appendix 1) These definitions, which are direct quotes taken from the GDPR will be useful for numerous of reasons. Firstly, it understands data related to health in a particular way. Health data relates to “*health status, including morbidity and disability, the determinants having an effect on that health status, health care needs, resources allocated to health care...*” (Appendix 1) Secondly, it understands the need for protection of this type of data. This type of data framework is crucial to define as data are considered one of the most important measure to fight the spread of the virus. The EU Commission stresses that where legislative proposals include the processing of personal/health data this will comply with the EU data protection rules. However, as these definitions do not specify what kind of health data can organizations/states process during the time of pandemic, this leaves room for interpretation within the Member States. This means that as the Member States do not have a specific



definition to follow, they must come up with their own definition which differentiates health data from other personal data, and process it accordingly with GDPR.

The EU has further created sets of data protection rules which are stated in GDPR. Data protection in the context of the pandemic is closely linked to the relationships within workplaces. This naturally looks at the relationships of the employees/employers and their relationship with the state and with one another. It further poses another set of questions, like who is responsible for processing this data, what relationship does the state have with the EU's data protection framework, and what role does the nation-state play in protecting the users.

### **5.1.6. Framing of an actor and framing of an audience**

#### **5.1.6.1. The EU as a securitizing actor**

Based on the chosen documents, the EU frames itself as the securitization actor. This section aims to prove why this is the case. Firstly, in the documents analyzed the EU addresses the Member States' roles and responsibilities.

Firstly, the EU plays the role of an actor as it proposes measures and solutions which the Member States should follow. "*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Building a European Health Union: Reinforcing the EU's resilience for cross-border health threats*" does not address the Member States directly in its title, however, does so throughout the document. It criticizes the Member States for taking unilateral approach to the pandemic to protect their own populations (European Commission 2020, 1). The Member States are addressed and criticized for lack of unified responses, making the States collectively more vulnerable. The efforts shown in this document are to gather the EU Member States strengths which helps overcome individual weaknesses. This document showcases, that by building a stronger Health Union, the EU and the Member States will be more likely to succeed if their actions are coordinated. (European Commission 2020, 1)

Secondly, the *Coronavirus Pandemic in the EU – Fundamental Rights and Implications* similarly does not address the Member States in the headline, but rather within the document. It illustrates the issues which have risen from the Covid-19 pandemic and writes down solutions/ suggestions which need to be implemented on the nation-state level to provide

better security for citizens. It focuses on implementation of use of processing of health data, as a necessary measure when curbing the spread of the virus (European Union Agency for Fundamental Rights, 2020, 41). This means that the EU collectively with other data protection authorities issued guidelines related to pandemic. *“These statements reaffirm that the right to health and protection of personal data go hand in hand. They also underline that any measure which would infringe the rights to private life and data protection should be grounded in law, necessary, and proportionate.”* (European Union Agency for Fundamental Rights, 2020, 41). The EU advises the states to process health data, as it is the most effective and efficient method of contact tracing (European Union Agency for Fundamental Rights, 2020, 42). However, this needs to be done rightfully, necessarily, and proportionately. These principles are outlined by the EU as for the Member States to follow. (European Union Agency for Fundamental Rights, 2020, 41).

Additionally, the EU claims that this pandemic presents challenges to all the aspects of functionality of European society, as it challenges life and health of people living in the EU. The Member States have a duty to report to the EU (European Union Agency for Fundamental Rights, 2020, 13). The EU frames itself as the entity providing the Member States guidelines how to handle an emergency like the pandemic using *European Convention on Human Rights, Article 15* and *General Data Protection Regulations*. Furthermore, the EU claims its responsibility for coordination and cooperation of the Member States. This means that the EU claims there is the need for a stronger EU Health Security Framework. This means that the citizens have been increasingly clear that they expect the EU to have a more active role in protecting their health (European Commission 2020, 1). The EU as an actor frames their securitization response as an act of solidarity. This solidarity is present from the Member States helping one another out during this pandemic, alongside with the Member States respecting the EU’s legislation (European Commission 2020, 1-2). Coordination of measures is stated to be critical, ensuring an effective practical response by the authorities and ensuring that citizens understand that action is evidence-based, grounded in consensus (European Commission 2020, 5). When it comes to processing of personal data, the EU demands it happening with full compliance with the applicable EU data protection rules. The principles and safeguards which are to be followed are found in GDPR. GDPR allows for an efficient protection of personal data, including health data (European Commission 2020, 3). Overall, the EU’s role of a securitizing actor is to increase resilience to cross-border health threats and provide the citizens the level of health they expect and deserve. To do this, the EU

justifies processing of personal data if it means curbing the spread of the Covid-19 (European Commission 2020, 21).

### **5.1.7. The Member States as an audience**

The Member States are framed as an audience. This thesis is aware it is not dealing with spoken language. However, the argument hereby is that although the interaction between the securitization actor and audience is not direct, as to say there is no debate to follow, the EU positions the Member States into the role of the audience. This means that the Member States are the ones to whom these measures are introduced to, and they are expected to act accordingly and follow them. The use of institutional language also poses frames, and interactions can be observed by looking at different implementations. Different Member States hold different positions towards the measure of using personal/health data to curb the spread of the Covid-19 pandemic. These differences and similarities will be examined later in the analysis.

The EU frames the Member States as audience as they are advised to follow the GDPR to the extent of implementing it into national law. Different states do this differently, but all of them respect it. Collecting and processing personal data is framed as a measure which needs to be considered and followed by all the Member States, but for the purpose of this thesis this will be focused on Denmark, Finland, Hungary, Ireland, Lithuania, and Luxembourg. There is a present framework within all the Member States considering and respecting GDPR when processing their citizens' data.

Although the importance of the EU varies from state to state, they all agree on GDPR as the legal framework to be followed when handling the personal data. This measure is found appropriate, proportionate, and legitimate, as processing personal data is understood as the most efficient method of contact-tracing. It is agreed amongst all the Member States chosen that this measure shall only remain in action until the end of emergency, and therefore is only in practice during the state of emergency.

## **5.2. What describes the symbolic patterns and themes used to weave together a coherent frame?**

As discussed in the previous sub-chapter, the frames which this thesis aims to focus on are primarily the Covid-19 pandemic framed as a security issue and health/personal data processing as an approved securitization measure. Within these frames, there are symbols and

patterns present. This chapter aims to understand and evaluate the different symbols and their importance. These symbols can be visual or verbal (Winslow, 2018, 3). In this case, there will not be any visual symbols. Rather, these symbols are expressed verbally, referring to constructs and themes within the documents. Notably, these symbols and patterns interfere with one another, and are interdependent, meaning that they directly affect each other. For example, processing health data and defining health data are all made in efforts to act solidarity and to create as unified EU responses as possible.

### **5.2.1. Unification vs. Fragmentation on the EU level**

Within “*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Building a European Health Union: Reinforcing the EU’s resilience for cross-border health threats*” focuses on framing solidarity and unity, and what happens when there is a lack of it. Symbolic words found in this document are linked to coordination and cooperation between the EU and the Member States. This means that in time of crisis the EU needs to provide a framework guiding the Member States through the pandemic. It is emphasized that Member States governments need to do everything in their power to deliver health services and protection from health threats (European Commission 2020, 21). The fight against the pandemic, alongside with other future health threats needs strengthened coordination at EU level. Measures need to be consistent, coherent, and coordinated to become as effective as possible. Coherence, and cooperation is on one hand present within the reactions of the Member States to the virus outbreak, as the EU claimed that it is the only way to effectively address the different damage caused by the pandemic in the various sectors, like health, economic and social sectors (European Commission 2020, 1). These examples could be found within the document as States helping one another by providing aid, receiving patients from neighboring countries, and sending healthcare and medical professionals to the countries that needed help (European Commission 2020, 1). On the other hand, fragmentation within the Member States relates to making the States and the EU more vulnerable. Therefore, the EU’s goal is to gather strength within the EU, which would lead to overcoming individual vulnerabilities (European Commission 2020, 2). Strong EU means protection of ways of living, economies, and societies, as when public health is in danger the economy is threatened too.

*Coronavirus Pandemic in the EU – Fundamental Rights Implications* refers to cooperation when it comes to protecting European citizens’ human rights. It speaks of cooperation in

terms of the governments protecting vulnerable populations and communities. These efforts are seen across the EU (European Union Agency for Fundamental Rights, 2020, 8). This document focuses on cooperation within the area of data protection and privacy. It mentions that several States released statements discussing of extraordinary measures, one of them being States allowing for processing health data in a state of emergency (European Union Agency for Fundamental Rights 2020, 41). Processing health data in emergency situations is a big part of the symbol of solidarity, as the EU claims that such actions are on the forefront of responses to the pandemic, and it can save lives (European Union Agency for Fundamental Rights, 2020, 41). However, the fragmentation here is seen as the EU claims that there has been a lack of harmony in the Member States' approaches to processing health data (European Union Agency for Fundamental Rights, 2020, 42). This is seen within the role of the data controller, employer and employee relations and understanding what information can be processed as health data.

### **5.2.2. Symbol of protection**

The symbol of protection poses questions about whose data should be protected and who should be providing protection of such data. Naturally, the symbolic protection relates to the EU's protection of citizen's fundamental human rights, meaning quality of life, and economies (European Commission 2020, 1).

However, the protection relevant to this thesis is the protection of the health data of the subjects. The EU argues that "*the data protection must not be jeopardized by emergency measures, although appropriate derogations may apply*" (European Union Agency for Fundamental Rights, 2020, 41). As stated before, processing of personal/health data is framed as a securitization measure naturally composed of symbols that create this frame. The EU further argues "*that the rights to health and to the protection of personal data go hand-in-hand*" (European Union Agency for Fundamental Rights, 2020, 12). *European Data Protection Supervisor* (2021) in *Annual Report 2020* highlights that 2020 has been a challenging year for data protection, as personal data had to be protected during the time of crisis. Authorities need to have in mind consistent data protection. States should be guided the following values: *impartiality, integrity, transparency, and pragmatism* (14). Impartiality refers to working within legislative and policy framework of the EU, being independent and objective, and finding the balance between the interests. Integrity is referring to providing the highest behavioral standards and following the 'right' path although it may not be popular.

Transparency refers to explaining actions with clear language, which everyone can access. Lastly, pragmatism means that the EU understands stakeholders' needs and provides solutions which are applicable (European Data Protection Supervisor 2021, 14). The EU sets its goal as a protector of citizens' health and personal data (European Data Protection Supervisor 2021). The Commission sets out guidance on data protection regarding contact-tracing. This is when Member States' aim to carry out contact-tracing, fundamental human rights need to be respected, particularly privacy and data protection. This is to prevent surveillance and stigmatization (eHealth Network 2020, 18). The EU is in the role of protector of the Member States' citizens health data. It aims to act in unity and providing the maximum level of protection possible (European Data Protection Supervisor, 2021).

### **5.2.3. Health data patterns**

Another common pattern in the documents is health data. This is a pattern as it is the main topic present within all the documents. It is a tool for combating the virus and contact-tracing. As health data appears within all the documents of the EU and the Member States, it is important to understand what it is, what it is not and how to handle it. It is stressed that during the pandemic personal health data must be processed in compliance with the fundamental rights to privacy and personal data protection (European Data Protection Board 2020, 4). Personal health data must be approached with higher protection as their processing is more likely to have negative impacts for data subjects (European Data Protection Board 2020, 10). Yet this and the above-mentioned definition of health data within GDPR framework leaves room for interpretations. This is because GDPR was constructed before the pandemic, and the definition of health data was not created for a state of such emergency. The conditions and extent for processing of such data vary, however, it is recommended by the EU that States process this data to protect their citizens (European Data Protection Board 2020, 7). The health data definition from the GDPR is attached to this document's appendix. It is suggested that health data can be derived from various sources, for example information provided by a healthcare provider in a patient record, self-check surveys where a person answers whether they are experiencing symptoms, or information about a person's recent trip or presence in a region affected with Covid-19 (European Data Protection Board 2020, 5). Specific definitions are found in the Appendix 1 (Appendix 1). Within the health data patterns there is a direct correlation to the topic of consent. Consent must be given by the data subjects and it must be informed, specific, and unambiguous. The

language of this consent must be clear affirmative action (European Data Protection Board 2020, 6).

#### **5.2.4. Employers and employees' relationships**

The EU argues that there is the potential for Covid-19 transmission in workplaces, which means some employers need to consider processing and collecting staff personal and health data (European Union Agency for Fundamental Rights, 2020, 41). It is stated as “*This could include data on experiences of symptoms or cases of the virus among their workforce, as well as information on employees' recent travel or contact with confirmed sufferers*” (European Union Agency for Fundamental Rights, 2020, 41). This presents the issue of roles and responsibilities of employers and employees. This concept is critical to understand power relations within the Member States and between the Member States and the EU. It is implied that in some cases, the employer might take up on the role of the data controller/ data collector (European Union Agency for Fundamental Rights, 2020, 12) idea taken out from the EU is that the EU does not indicate the role of the data controller, so as examined later in the analysis this role varies from state to state. The role of data controller is framed as carrying out the responsibilities laid down in GDPR. These responsibilities are concerned with following GDPR and processing subject's data accordingly. It also means that the data controller should protect the data of the subject. It is not specified whether this role should belong to a national authority, a private/legal person, or employers in general. This leaves space for interpretation by the Member States, and for putting different importance to the state and to the employer.

It is furthermore not indicated whether employee should voluntarily disclose the information to the employer, or whether this information can be taken without direct consent. However, GDPR claims that: “(54) *The processing of special categories of personal data may be necessary for reasons of public interest in the areas of public health without consent of the data subject. Such processing should be subject to suitable and specific measures so as to protect the rights and freedoms of natural persons...*” (Appendix 1).

The symbolic employer and employee relationships are linked to implementation of processing of health data.

### **5.2.5. Symbols and patterns within the documents of the Member States**

As mentioned before there are similar symbols and patterns found within the Member States which are overall like the ones found in the documents of the EU. These symbols and patterns relate to data processing as a securitization measure proposed by the actor. These symbols thus are security, employee/employer relations, different levels of responsibilities, the role of the state and the role of the EU.

### **5.2.6. Solidarity**

There is an emphasis on the need for solidarity, however the states understand this concept as a nation-state issue, rather than a European issue. The exception to this is in the case of Luxembourg, which claims the issue as global/European issue (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021).

### **5.2.7. Understanding of health data**

Health data is another symbol commonly found in the documents. This is a symbol, as health data is not entirely focused on just one type of data, but rather it is assigned different meanings by different Member States. It is a common pattern amongst the Member States to respect the GDPR and process the health information accordingly. However, differences can be found in the areas where the documents do not specify the information. When it comes to processing health data as a securitization measure, the crucial emphasis is on the way how the different work with the pre-established definitions of health data by the EU. Out of the chosen Member States, only Denmark and Finland provide clear sets of definitions as for what information can be processed as health data. Finland understands health data in the context of the Covid-19 pandemic as information whether a person has contracted Coronavirus or not. Information about an employee returning from a 'risk zone' and information whether an employee is in quarantine is not considered health data. This health data is accessible to the employer and the government. (Appendix 1) In case of Denmark, health data is understood as information of a person contracting Covid-19, or any new variants of the virus (Statens Serum Institut 2021). Health data is understood in the same context as in the case of Finland, meaning accessible for governments and employers (Office of the Data Protection Ombudsman 2020). In case of Hungary, health data is put under sensitive category of personal data, however it is not specified which information this entails (Hungarian National Authority for Data Protection and Freedom of Information 2020, 1).



Ireland does not provide a specific health data definition, but suggests that use of such data should be proportionate. Ireland installed sets of safeguards, which are limitation on access to the data and training staff to protect individuals' data safety. When a person is unavailable to provide legal consent health data can be processed to ensure survival of a person (Data Protection Commission 2020).

Lithuania understands health data as personal data with purpose to protect health and be processed by either the employer or the public authorities. Lithuania does not specify which information specifically categorizes as health data (State Data Protection Inspectorate 2020).

Luxembourg does not provide a direct definition, however, suggests an employee voluntarily informs an employer in case of contracting Covid-19. Entities cannot collect files or data relating to other health conditions an employee might be dealing with. Health data must be processed accordingly with the national Labour Code (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021).

#### **5.2.8. Pattern of the data controller**

Another pattern which appears present in all the Member States document is the symbol of data controller. This is a symbolic function, as it does not refer to a person, but rather an entity which can be either the national authority of some sort or the employer, or other private or legal person (Appendix 1). In case of these Member States this role is inflicted either on the state, or onto the employer. In case of Denmark the role of the data controller/collector is put on the state (Statens Serum Institut 2021). Different regions within the state are responsible for processing of citizen's data. Finland assigns this role to the employer in the state of pandemic, but the employer is advised to follow the GDPR or national law which deals with such processes (Office of the Data Protection Ombudsman 2020). In case of Hungary, it specified that the employer is the one in the role of the data controller. In this case the employer must development the pandemic/business continuity action plan to reduce any threats, with consideration of the data protection risks of the measures applied. This detailed document must be available to the employees (Hungarian National Authority for Data Protection and Freedom of Information 2020, 3). Ireland refers to the controller as "*a person, company, or other body that decides how and why a data subject's personal data are processed*" (Data Protection Commission 2019, 4). A "*processor refers to a person, company or other body which processes personal data on behalf of a controller. They do not decide how or why processing takes place, but instead carry out processing on the orders of a*

*controller*” (Data Protection Commission 2019, 4). In case of Lithuania, the role of the data controller is assigned to the employer, or other entity which deals with controlling personal health data processing. Data controllers can document the information received or compile relevant data files, and any personal data processed by data controllers must be provided to public authorities for public health purposes accordingly to GDPR (State Data Protection Inspectorate 2020). Data controllers should not violate the rights of the data subjects, as they should not require providing personal data which are not necessary to ensure the execution of the procedure established. Lithuania implies that in most cases the role of the data controller is inflicted upon the employer (State Data Protection Inspectorate 2020). In case of Luxembourg the role of data controller is not directly specified towards the employer, however in case of such data being processed the employers must strictly follow the national Labour Code. Public and private entities cannot put in place files or process any activities relating to health data in case of Covid-19. This includes an employee voluntarily informing the employer that they have tested positive for Covid-19 or showcases other symptoms of the illness. It is stressed out that it is not the role of the employer to carry out any contact-tracing, as this responsibility falls under the Health Inspection, which as national authority (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021).

#### **5.2.9. Employer and employee relations**

Another important expression found in the documents of the Member States are employers and employees. These are symbolic because it does not relate directly to only one person, or one context for the matter. Different roles of employees and employees in the context of processing health/personal data are necessary to understand and examine to get the broader picture of processing health data as a securitization measure. It is also necessary to understand these relations to gain perspective on who is the protected entity, and who is the protector entity. Lastly, these relations help highlighting different levels of responsibilities within the state.

Denmark understands that employers are responsible for ensuring a safe professional environment for the employee, as the employer is responsible for protecting employees’ health. Employers are asked to carry out risk assessments to consider factors making the employee more likely to get infected. The employer is responsible for informing employees about the risks of Covid-19. Generally, the employer is not allowed to ask the employees about the symptoms. Employers can disclose that an employee is infected with Covid-19, but the Danish authorities’ advice to do this only when necessary. The employer can record and

reveal information which is not specific enough to be health data. This information includes *“that an employee has returned from a so-called ‘risk area’, that an employee is in home quarantine (without stating the reason), or that an employee is ill (without stating the reason)”* (Boesen and Pedersen 2021). Employees ought to voluntarily expose their Covid-19 to their employers. Generally, the relationship between the employers and employees are presented in a way which highlights the employers’ role as a protector and insurer of safety and health of the employees (Boesen and Pedersen 2021).

Finland stresses that when employer needs to process data of an employee, they must follow the needed law, and only process the relevant data, which is whether the employee has contracted Coronavirus. This law being the national law and GDPR. The employer further needs to either designate individuals who are qualified to process the employee’s data or specify the tasks involving processing health data. In case of the present Coronavirus in the organization, the employer cannot name the employee in question (Office of the Data Protection Ombudsman 2020). The employee’s personal data must be processed accordingly to GDPR, and GDPR is also a source of rights that the employee has. In case of infection, the employee shall remain anonymous. The non-infected employees are referred to as a third party (Office of the Data Protection Ombudsman 2020).

Hungary highlights that the employers must at all costs protect the health of employees. The employers are responsible for controlling and processing of data and must ensure safe performance of workspace. Employers must develop a specific action plan, which is adjusted to the pandemic (Hungarian National Authority for Data Protection and Freedom of Information 2020). This document should include the most important issues regarding the Covid-19 like infection source, mode of spreading etc. It should further include the authority which the employee can turn towards in case of contact with the disease. The employers hold responsibility over the Hungarian authorities, as the document claims the employers are the primary protecting of the employee’s health and personal data. The employees have lower responsibility levels and must be protected by the employers. In case the employees are exposed to the disease they must follow commands made by the employers. Employees must fill out relevant questionnaires to make employers’ work easier. Employees’ personal/health data should be protected accordingly with GDPR (Hungarian National Authority for Data Protection and Freedom of Information 2020). Generally, the role of the employees is portrayed as the protected entity by the employers.

Ireland understands the role of the employers as they are legally obliged to inform the employees about the safety of their workplaces. Employers can ask whether the employees

visited the 'risk area' or if they are showing any symptoms. Employer is given guidance by the responsible government authorities. The employer is justified to require employees to inform them in case they have a medical diagnosis of Covid-19 to take the necessary steps in protection. Recording of this information should be factual and truthful to ensure maximum safety. The employees are protected by the employers. Employees have a duty to take a reasonable care to protect their health of others and their own. Employees should follow the advice given by healthcare professionals. Employees' data must remain confidential (Data Protection Commission 2020).

Lithuania understands the role of the employers as the ones in control of data processing, meaning that the employers can process and collect personal data in the Covid-19 pandemic context. The employers should refrain from collecting temperature readings of staff, medical records etc. In case of the questions regarding processing health data, the employer is encouraged to contact the national authorities. In case of an employee meeting a sick person, the employer is obliged to send the employee to quarantine (State Data Protection Inspectorate 2020). Data of employees must be protected at all costs, accordingly to GDPR. The employee has a duty to report to the employer whether they contracted Coronavirus. Employees have a duty to report to the employer whether they contracted Coronavirus. Employees' data, which is allowed to be processed include "*whether the person was travelling to a 'country of risk', whether the person was in contact with a person travelling to a 'country of risk' or suffering from Covid-19, whether the person is at home due to quarantine (without giving a reason) and the quarantine period, whether the person is ill (without specifying a specific disease or other reason)*" (State Data Protection Inspectorate 2020).

Luxembourg advises employers to consult their information with the government institutions. Importantly, employers are advised to consult their online information published by the government on a regular basis with the relevant state authorities. In case of their employees working with close contact to other people the employer is obliged to inform the national authorities. In case of the employee's inability to work due to quarantine, the employer must be informed. The employer is not the one carrying out investigations or perform contact-tracing in any way shape or form. This task Luxembourg assesses to the national authorities. Moreover, the employer should not discriminate their employees. The employee must be protected by the employer but also by the public entities, meaning the state. Employees must use all means to protect the health and safety of other employees, and in case of employee's inability to work they must inform the employer. In case of an employee's exposure to Covid-19 it is their responsibility to voluntarily consult this with the employer. The employee

must provide official quarantine/isolation order to the employer and must provide a medical certificate to the national authority. Employees have their data protection rights settled in the GDPR, but also in the national legislation. The state recognizes that contact-tracing and other security methods (like temperature measurement) could interfere with the employee's privacy (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021).

#### **5.2.10. Role of the state and role of the EU**

Standing and understanding the roles of employees and employers helps clarifying the role of the nation-state. In this case, nation-state relates to relevant governmental organizations and institutions. This showcases a pattern when framing the EU, an international organization, as a securitization actor

Denmark emphasizes the role of the state as the entity responsible for contact-tracing.

Denmark understands how complex GDPR is and comes with *Danish Protection Act* to be used as a backup reference when it comes to processing health data (Boesen and Pedersen 2021). The EU is only mentioned as it is necessary to respect GDPR. Based on these factors, the state is the stakeholder with the biggest responsibility assigned.

Finland specifies that the state allows the health data to be processed by the relevant authorities, and employers. The state proposes very direct ways for employers and employees to handle this data. Furthermore, Finnish legislation is firm on how to process this data.

Processing personal data to combat Covid-19 is presented as a national securitization measure (Office of the Data Protection Ombudsman 2020). The EU is mentioned as providing guidance when processing sensitive data information. GDPR is mentioned as a virtue to use when processing such data, however there are cases when GDPR cannot be used as the processing requires more specific regulations or other procedures. These exceptions include processing necessary for carrying out the obligations and exercising specific rights in the field of employment and social security; when data is necessary for reasons of substantial public interest, on the basis of Union or Member State law; when processing is required for preventive of occupational medicine, public health interest; or achieves purposes in the public interest, scientific or historical research purposes or statistical purposes (Office of the Data Protection Ombudsman 2020). The state has more responsibility than the EU.

In case of Hungary the state is putting the most responsibility onto the employers. The employers are the main protectors of the data controlling and processing, and thus protect national security. The Hungarian national authorities created procedural order related to the Coronavirus based on recommendations from the EU (Hungarian National Authority for Data

Protection and Freedom of Information 2020, 5). The state acts as a punisher, rather than a protector. This is seen in a statement where *“the person who fails to subject himself to the epidemiological measures ordered by the competent organization perpetrates a criminal act; furthermore, the criminal liability of individuals who infect someone through their willful behaviour causing severe bodily harm or death can also be established”* (Hungarian National Authority for Data Protection and Freedom of Information 2020, 5) In such cases the police have the right to act and to process personal data. The police can use video surveillance in public spaces accordingly to legal requirements (Hungarian National Authority for Data Protection and Freedom of Information 2020, 5). Moreover, Hungary uses the term ‘jeopardizing the health’ as reference to the person who is possibly infected and did not disclose their information (Hungarian National Authority for Data Protection and Freedom of Information 2020, 1) Similarly to the other examples, the EU is respected as the data must be processed accordingly to GDPR (Hungarian National Authority for Data Protection and Freedom of Information 2020).

Ireland addresses key principles which the data controller must follow. The state These principles are lawfulness, transparency, confidentiality, data minimization, and accountability (Data Protection Commission 2020) Furthermore, Ireland legally binds the employers to protect employee’s health and personal data. Following these principles, organizations must be transparent, disclosing the purpose and how long will this data be retained for. Ireland commands the organizations to make information easy to understand in clear language. The safety of the data must be ensured, and affected individuals should not be disclosed to any third parties without a clear justification. Only the minimum amount of data necessary is recommended to process. The GDPR is respected and must be followed when processing personal data. However, Ireland has its own Data Protection Act, which also must be followed when processing health data (Data Protection Commission 2020).

Lithuania advises employers, who act as data controllers to contact national authorities. The national authorities stress that personal data must be assessed on a case-by-case basis. The state recommends documenting cases of personal data submission to follow the EU’s accountability principle. The state serves as information provider, alongside with protector of health data. The responsibility of protector is shared with employers. The EU is respected and referred to, as in the other cases data must be processed accordingly to GDPR. Lithuania does not have its own framework for processing health data (State Data Protection Inspectorate 2020).

Luxembourg also acts as the main protector and information provider when it comes to health data processing. Luxembourg often refers to their Labour Code as main guideline for providing health data information. The state is responsible for carrying out contact-tracing or other Coronavirus related investigations. GDPR is respected and referred to as the main document relevant for processing one's health data. The national authorities are responsible for the evaluation and collection of information about coronavirus, including movement of individuals. Luxembourg invites all the individuals to follow the national recommendations (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021).

Luxembourg (2021) also has their own data protection authority, which is an independent institution with legal personality. However, this mostly refers to GDPR and does not specify what differences there are. Generally, the state acts as a protector, informatory, and data controller/collector.

### **5.3. What describes the cultural constraints and social situations revealed by the symbolic coherence of particular frames?**

This subchapter aims to work within the notion that creating frames is a set of decisions behind it. Therefore, this sections' focus is on what is left unsaid and what is stressed and mentioned in the documents. This is done as publishers position an abstract issue into a concrete schema in a way that is designed to resonate with audience. By choosing to cover this issue and not another issue, the publishers influence what solutions are proposed by defining the problems. Therefore, this chapter aims to look and understand absences and silences, and what is said and what is left unsaid (Winslow 2018, 2).

#### **5.3.1. Cultural constrains and social situations revealed in the documents of the EU.**

As mentioned before, there are many silences present in the EU documents when it comes to processing health data as a securitization measure against Covid-19 which is framed as a security threat. This results in a non-harmonized supervisory authority in Member States, as showcased in the previous chapter. These silences mostly appear within the EU's definitions of relevant concepts, for example health data, or a state of emergency.

These silences are a result of the EU's diversified society. The EU claims that the society within the EU is not homogenous, making certain individuals and groups more vulnerable during the pandemic. This can mean older persons, minorities, asylum seekers, disabled

persons, or people with overall health and socio-economic situation. While the Covid-19 pandemic affects all the citizens, some citizens are in less fortunate positions than others. Therefore, government measures need to be accurate responses to these diversified populations (European Union Agency for Fundamental Rights 2020, 7). These silences within the definitions are also related to the concepts of human rights within the EU. To ensure the right to life and health for everyone, the governments needed to put in place specific measures, processing health data being one of them. Therefore, the EU is aware of the fact that measures respecting human rights are proven to be the most efficient in terms of health outcomes (European Union Agency for Fundamental Rights 2020, 7). To ensure that basic principles of international human rights are followed, any restrictions to these rights ought to be legal, proportionate, and necessary (European Union Agency for Fundamental Rights 2020, 13). To protect the human rights and maintain the highest standards in the protection of the human rights strengthens the EU role in international coordination and cooperation to prevent health threats and improve global health security (European Commission 2020, 3). The goal of the EU is to create a safe international coordinated response to all future possible health threats. It is stated that governments must do everything to deliver health services and to protect from health threats. *“This means working together, and using the EU’s potential to improve the health response and to support Member States to fulfil their responsibilities”* (European Commission 2020, 21). There is a need for clear direction at EU level, alongside with close coordination with the Council and the EU Parliament. The aim is to reach to all citizens and to create a forum where their concerns and priorities can be addressed. Furthermore, the citizens have certain expectations towards the EU which need to be met (European Commission 2020, 21). Protection of human rights is a likely reason for not specifying the definitions of data controller/ data collector alongside with health data itself. This is done as the aim is to create a framework which can be as unifying as possible. All Member States can follow this framework to an extent. If these concepts were to be defined precisely by the EU, this could lead to potential discrimination of different society groups within the Member States. As an example of this could be that if the role of the data controller were imposed onto only the employers, it could have led towards some groups not being able to fulfill this role. Employers are not in the state to process such data, due to age or lack of technological tools to carry out such actions. Furthermore, keeping these concepts in mind, the EU addresses that Coronavirus pandemic led to issues of discrimination towards certain groups in the population. Discrimination is another issue which needs to be addressed in this subchapter. The EU stands by the principle



of equal treatment between people irrespective of racial or ethnic origin (European Union Agency for Fundamental Rights 2020, 11). The EU (2020) stresses that incidents of hate crime against people of perceived Asian or Chinese origin, cases of hate speech targeting other groups, such as Roma or disabled people were reported in some Member States. People of Chinese or Asian origin were exposed to discrimination in instances of them purchasing goods and services, alongside with access to public health services and education. These victims rarely report these cases to the authorities, and therefore the racist and xenophobic incidents linked to the Covid-19 pandemic are likely to not represent the real situation. Furthermore, several Member States reported politicians and public figures using derogatory and xenophobic language towards these minorities, and migrants. Xenophobic and derogatory language is too present in the social media and traditional media (European Union Agency for Fundamental Rights 2020, 11). More instances were documented by the EU towards minorities, Roma people, immigrants, and elderly people (European Union Agency for Fundamental Rights 2020, 10) This gives perspective into the definitions of health data found within GDPR, and why it is not specified what information can be processed as health data. As health data is a group of data under personal sensitive data, it should include all information of subject's data health (European Union Agency for Fundamental Rights 2020, 35). However, this information can easily become source of discrimination. For example, if a person travelling to a 'risk country' would be considered health data this could potentially open doors for discrimination within Member States governments. The same idea applies to a person who has been in contact with another person who carried Coronavirus. If such information were to be framed as necessary part of health data, it would have meant that data controllers could possibly discriminate individuals based on these circumstances. So, the lack of direct definition of health data is seen as a measure to combat discrimination towards specific regions or groups.

Generally, the lack of these direct definitions is made to necessarily provide a unified response from the governments of the Member States. In other words, the EU as a securitization actor aims to appeal to a wider audience, meaning that these definitions can be interpreted and implemented accordingly by different States. This is done to avoid discrimination, provide the highest possible standards for human rights and to provide a unified response. The EU's goal is to become stronger when facing health security threats, which requires for a unified approach from the Member States. The argument here is that the more vulnerable units will be protected by the stronger ones (European Commission 2020, 1). As mentioned before, there are expectations within the Member States citizens for a stronger

and more active EU. The EU assumes that larger coordination will deliver more effective responses to the expectations of the EU citizens, as health is considered a top concern (European Commission 2020, 1). These vague definitions are easier to put upon the broader and more diversified society and are easier to implement than if they were to be specifically defined.

On the other hand, the EU criticizes the Member States for uncoordinated measures. The EU is aware of their limited abilities to coordinate the national responses or to implement the agreed common approaches (European Commission 2020, 5). The EU furthermore mentions that communication within the Member States and Ministers of Health in Member States is not always straightforward, which impacts decisions taken at the national levels (European Commission, 6). Health crises like Covid-19 are multi-sectoral threats in nature, and a key priority of the EU is enhancing coordination within the Member States (European Commission 2020, 6). Therefore, these silences found within the definitions could be seen as reasons for divisions and different interpretations within the Member States. As discussed in the previous chapter, different Member States understand health data differently, and although there is a shared sense of respect for GDPR Denmark, Finland, Ireland and Luxembourg created their own frameworks for processing such data. Without the health data defined, there are differences between who controls the data processing/ collects the data. The EU speaks of the data controller as of someone who needs to have interests of protecting fundamental human rights of the data subjects. Their interests must be legitimate to prevent fraud (Appendix 1). *“The data controller shall implement suitable measures to safeguard the data subject’s rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision”* (Appendix 1). The responsibilities of the data controller are stated, however, it is not specified who should be fulfilling this role. As previously argued, this could be due to diversified EU’s society, respect to minorities and vulnerable populations, and lastly, to avoid any kind of discrimination. However, these silences result in the different interpretations of this role within the Member States documents. For example, Denmark and Luxembourg require the national authority to be the data controllers and assign responsibilities accordingly (Boesen and Pedersen 2021) (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021). Finland, Ireland, Lithuania and Hungary assign the role of the data controller and processor to the employer. In case of Finland and Ireland, those roles are clearly defined (Office of the Data Protection Ombudsman 2020) (Data Protection Commission 2020). This means that Finland clearly allows for what information categorizes

as health data and claims that employer is required to follow laws applying to such processes. Health data can only be processed by people who are qualified for such processing. The employer's role is to designate such individuals in advance "*or specify the tasks that involve processing health data. Individuals who process health data are subject to a confidentiality obligation*" (Office of the Data Protection Ombudsman 2020).

Ireland provides guidelines where the data controller is chosen and requests the specific data controller identification (Data Protection Commission 2019). When data subjects want to exercise their data protection rights, they need to make request to the data controller (Data Protection Commission 2019, 6). Data controller can be a person, company or other relevant body deciding "*how and why data subject's personal data are processed*" (Data Protection Commission 2019, 4). Furthermore, data controllers' responsibilities root in GDPR Article 5 (Data Protection Commission 2019, 4).

In case of Hungary the role of the data controller is inflicted solely upon the employer and as discussed previously, posing responsibility. This means that the national authorities gave the employers the responsibilities to protect personal data of individuals in an employment relationship or any other relationship. The employer is thus required to follow GDPR when processing health data (Hungarian National Authority for Data Protection and Freedom of Information 2020).

Another important silenced information is that the EU does not specify whether health data must be processed voluntarily, and when is the consent of the subject necessary.

GDPR states that written in Article 42, Appendix 1 (Appendix 1).

Silences and fragmentations can also be explained through timing of when GDPR was published. Implementation of the data processing guidelines has led to fragmentation within the Member States. GDPR is aware of the fragmentations within the Member States' implementation (Gabriel and Hickman 2019). The Member States proceeded implementation of GDPR accordingly to their own legal traditions. This showcases their own national and cultural attitudes towards privacy and data protection (Gabriel and Hickman 2019). The aim of the GDPR was to increase harmonization across the states and ensure a consistency and high standards for protection of personal data throughout the EU (Gabriel and Hickman 2019). However, as the nature of GDPR is "a regulation" rather than "a directive". This means that it automatically applies in each Member State, without the need for national implementing legislation. Moreover, despite its nature as a Regulation, GDPR is not able to create completely identical privacy and data protection rules across all Member States. Rather it allows for Member States to implement specifications and/or restrictions on specific rules

within the GDPR (Gabriel and Hickman 2019). Specific issues fall outside of the EU's legislative competencies, and this could be for example national security, a Regulation cannot impose uniform roles (Gabriel and Hickman 2019). States therefore have the power to specify their own specific sets of rules with their own reasoning. The nature of GDPR as a regulation therefore leads to numerous provisions which can lead to the Member States making their own rules in such areas (Gabriel and Hickman 2019). Importantly, GDPR was created and implemented before a health emergency like the Covid-19 is framed to be. Therefore, in most of the Member States there were no specific requirements made before the pandemic regarding processing health data. The conditions when controllers need to process personal health data in public interest were not created before the pandemic. This is the case for the EU and most of the Member States. Therefore, the nature of these conditions varied from one Member States to another. As the pandemic departed, different states thus resolved to different guidelines based on GDPR. The same rules apply towards the roles of the data controllers and data processors. These roles were previously mentioned as symbolic, as these do not refer to a specific job description but rather are symbolize how certain entities should handle health data (Appendix 1). As previously mentioned, GDPR was implemented before the pandemic. The pandemic is seen as a state of emergency. The EU defines an emergency as *“a legal condition which may legitimize restrictions of freedoms provided these restrictions are proportionate and limited into the emergency period”* (European Data Protection Board 2020, 2). However, the length of the emergency is silenced too, as the EU leaves that up to the national governments. The only requirement is that emergency decision-making processes should be documented appropriately (European Data Protection Board 2020, 2).

#### **5.4. What describes the power relationships produced by a particular frame?**

As discussed in the thesis, the Covid-19 is framed as a security issue. The prominent frames found within the documents are fragmentation vs. solidarity, data, and privacy processing as an extraordinary securitization measure and lastly the EU as an actor vs. Member States as audience. This chapter aims to look at the different power relations within different frames.

##### **5.4.1. Covid-19 as a securitization threat**

As previously discussed, Covid-19 pandemic is framed as a security threat by the relevant documents of the EU. Processing of health data is framed as a securitization measure

presented by the EU to the Member States. These frames were largely accompanied with the solidarity vs. fragmentation within the EU's Member States. On one hand, the EU calls for strengthened levels of solidarity and cooperation, on the other hand there is fragmentation regarding how the States responded to the pandemic, and what data they process based on their own implementation of GDPR.

Framing of solidarity and fragmentation showcases different power relations between the EU and the Member States. As previously mentioned, unified responses to the pandemic are a goal which the EU would like to achieve. A stronger EU means overcoming individual weaknesses within the Member States (European Commission 2020, 2). The EU claims that collective efforts to fight the pandemic are necessary to strengthen coordination at the EU level. *"The health situation in one Member State is contingent on that of the others"* (European Commission 2020, 2). Moreover, the EU aims for these measures to be collectively coordinated. This means, that the EU encourages the States to follow specific measures. Moreover, the EU requires that the measures regarding protection of personal health data should be embedded in law, proportionate and they ought to go hand in hand with rights to health (European Union Agency for Fundamental Rights 2020, 12). As previously discussed, GDPR sets out rules for processing health data and has is a Regulation, and not a directive this led to fragmentation and disharmonized actions across the Member States. A Regulation is directly applicable which means its automatic implication in each Member State without the need for national legislation (Gabel and Hickman 2019). Fragmentation within Member States' dealing with Covid-19 pandemic responses of the Member States is an issue which speaks of the power relations within the framing of Covid-19 as a security threat. This fragmentation can be partially explained through the fact that the issues of national securities fall outside of the EU's legislative competences (Gabel and Hickman 2019). The argument based on the literature is that although the EU as a securitization actor calls for unified measures, the Member States as an 'empowering audience' have the power to act accordingly to their own judgements. The empowering audience within securitization shapes the legislative overall outcome (Bright 2012, 874). Empowering audience has the power to enable the securitization actor to take the action proposed. (Bright, 2012, 864) This means, that although the EU acts as a securitization actor, the securitization of Covid-19 and processing of health data as an appropriate measure would have no effects if not implemented and embedded in the legislations of the Member States (Bright 212, 864), States must follow the GDPR in the state of crisis as their foundation for processing health data during the pandemic. As discussed previously, GDPR is a regulation, meaning that it

applies automatically and uniformly to all EU countries as soon as entering into force, “without needing to be transposed into national law. They are binding in their entirety on all EU countries” (European Commission n.d.) As this is the nature of GDPR, the states interpret and implement it accordingly to their interest. As GDPR was produced before the pandemic, the States had the power to create their own sets of rules and guidelines on processing personal data during the Covid-19 pandemic, if they complied to GDPR. The character of GDPR led to some states having their own national policies to process personal data, such as Denmark, Finland, Luxembourg and Ireland. When GDPR was created, one of its aims was to increase harmonization throughout the Member States. The character of the document as Regulation meant that it was directly applicable. However, as GDPR was created it did not create completely identical privacy and data protection rules across all Member States (Gabel and Hickman 2019).

This is the argument for fragmentation within processing personal data before the pandemic. Fragmentation within the EU Member States can be seen when approaching processing health data as a securitization measure. As discussed previously, the Member States emphasize roles of different stakeholders when dealing with this issue, putting the most emphasis on the stakeholders within the state. Denmark, Finland, Luxembourg and Ireland claim these are national institutions, Hungary and Lithuania put this most emphasis on the employers as data controllers. Specifically, this can be seen in Hungary, where the employer has the most amount of responsibility when processing personal data (Hungarian National Authority for Data Protection and Freedom of Information 2020). This brings back the concept of the empowering audience, as the States are the ones who are implementing the securitization measures accordingly to their own best interest and beliefs. This is seen throughout the documents of the Member States. Although they acknowledge the role of the EU and implement GDPR, national security is the priority in all the States. The power of the EU lies within providing the Member States with viable policies which can be implemented and fit into the Member States’ legislatives (European Union Agency for Fundamental Rights 2020, 41). This is illustrated in the example of processing personal data as a securitization measure by the EU, when the EU speaks of processing health data in the context of the pandemic in the employment environment: “*These concerns saw employers turn to DPAs for advice on the legal requirements relating to the collection and processing of such data. A large majority of DPAs’ statements considered data processing in the context of employment, with authorities agreeing that data protection must not be jeopardised by emergency measures, although appropriate derogations may apply*” (European Union Agency for

Fundamental Rights 2020, 42). In this statement the EU understands processing health data in the employment context and gives out guidance for the States as if what to do. Later, the EU understands that there is lack of harmony in how the Member States approach this. For example, Luxembourg does not allow the employers to process any personal data relating to the pandemic as the role of the data controller/processor is imposed strictly on the nation-state (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021). However, Denmark, Finland, Hungary, Ireland, and Lithuania allow the employer to process health data when necessary. However, the responsibilities of the employers too vary within the different Member States. This can be used as further example of the Member States empowering audience. This is because the State has the power to assign roles and responsibilities to different entities within the state. Such power is granted to the States by the EU's GDPR; however the states various implications suggest the State has the final decisive power.

In case of Denmark, the Danish Protection Authority issued guidelines where they enable the employers to collect and disclose information about the employees regarding the pandemic. *"The guidance states that an employer's ability to ask employees questions related to COVID-19 and employees' duty to inform their employer is governed by the applicable employment and labour law legislation"* (Boesen and Pedersen 2021). Employers can record an information which considers employees returning from a 'risk area', employees being in home quarantine (without the specific reasons) or the fact the employees are ill (Boesen and Pedersen 2021). The processing can be legitimate only if necessary, when *"...there is a good reason to collect or disclose the personal data in question; it is necessary to specify the personal data (i.e. could the purpose be achieved by "telling less"); and; is necessary to name the relevant employee"* (Boesen and Pedersen 2021). The fact that this Member State is an audience is showcased when the document claims that the health data processing must be relying on GDPR Article 9(2)(b). This showcases the power, especially legislative power of the EU. The empowering character of the audience is shown when the document refers to "Danish Data Protection Act" (Boesen and Pedersen 2021), which showcases the empowering nature of Denmark as an audience. This is because Denmark interpreted and implemented GDPR accordingly to their own judgements, and during the pandemic adjusted this legislation to fit into the emergency narrative. This is shown when Denmark speaks of the employers' role to provide clear information to their employees, alongside with ensuring appropriate policies when processing employees' health data. All of this is done with the intention to provide a safe workspace (Boesen and Pedersen 2021).

In case of Finland, the role of the state as an empowering audience is showcased when Finland speaks of “*Finland’s legislation permits the processing of personal data for the purpose of treating and preventing serious diseases... The GDPR provides for numerous rights related to data protection, including the right of access to your personal data*” (Office of the Data Protection Ombudsman 2020). This statement acknowledges the role of the EU as a securitizing actor, having the power to frame what rights ought to be followed. Finland’s nature as an empowering audience is showcased within the first sentence, as this is something which is implemented from the EU and is interpreted and adjusted to the emergency state. Furthermore, Finland showing precisely what health data means is an act of empowerment. This is because this is interpreted and implemented by the State, embedded in the national legislation. Finland showcases its power when following “Act on the Protection of Privacy in Working Life”, which is an implementation of GDPR including national strategies. Finland further stresses that processing of health data of employees can be only done when necessary. This showcases that although Finland respects the actor’s securitization measures, it interprets them accordingly to national preferences (Office of the Data Protection Ombudsman 2020).

Hungary is very clearly framing the national power. It differentiates from other States, as punishes not following the measures. Hungary is the only State directly claiming that a person who fails to follow the epidemiological measures ordered perpetrates a criminal act, alongside with acknowledging criminal liability of individuals who willfully infect and cause bodily harm or death (Hungarian National Authority for Data Protection and Freedom of Information 2020, 5). This showcases the national exercise of power as this is not suggested nor is it stated anywhere in the documents of the EU. The exercise of national power could be seen when the state assigns the most responsibility to the employers. This is shown when Hungary claims that “*In the case of data processing related to legal relationships aimed at the performance of work... the employer is responsible for ensuring the conditions for the safe performance of work which do not endanger health and for planning and developing the related processes of data processing*” (Hungarian National Authority for Data Protection and Freedom of Information 2020, 2) The role of Hungary as an empowering audience is shown when Hungary assigns the employer to follow relevant articles of the GDPR with the focus on law enforcement, defense and national security (Hungarian National Authority for Data Protection and Freedom of Information 2020, 2). The language in this document suggests that ultimately, national security is the priority, however the EU as an actor has legislative power to influence processing of personal data.



Ireland similarly commits to processing of personal data under Article 6 GDPR and applies conditions under Article 9 which are also relevant. The EU's power as an actor is shown when referring to GDPR Article 9 (2) as an authority to be respected when processing personal health data (Data Protection Commission 2020). Furthermore, Ireland addresses GDPR as a legal basis to process health data when it is necessary and proportionate (Data Protection Commission 2020). The character of Ireland as an empowering audience could be seen when Ireland lists national rules under which this data should be processed. These rules are similar to GDPR, but Ireland implies them into their own national security framework. These rules are *transparency, confidentiality, data minimization, accountability* (Data Protection Commission 2019). These principles follow GDPR in their essence but are adjusted to fit into Ireland's current emergency.

Lithuania showcases its nature as an empowering audience when claiming that to ensure processing of personal data does not violate the principle of reducing the amount of data set out in GDPR. It is possible to process internal personal data about employees. This information includes: *“whether the person was travelling to a ‘country of risk’, whether the person was in contact with a person travelling to a ‘country of risk’ or suffering from Covid-19, whether the person is at home due to quarantine... and the quarantine period, whether the person is ill (without specifying a specific disease or other reason)”* (State Data Protection Inspectorate 2020). This showcases the role of Lithuania as an empowering audience, similarly to the other examples implementing policies based on what suits them on a national level. This can be also seen when Lithuania claims that *“even in a pandemic situation, the protection of personal data should not be overlooked. Any personal data processed by employers... must be provided to public authorities for public health purposes in accordance with GDPR requirements”* (State Data Protection Inspectorate 2020). This shows the power the EU has as a legislative entity, but also shows importance of the national authorities. Interestingly, Lithuania similarly to Hungary does not have their own law for processing and protecting personal data.

Luxembourg showcases its empowering character when mentioning the national data protection legislation which needs to be followed when processing personal data in a state of emergency. *“Private and public entities may only process the personal data, which are strictly necessary for compliance with their legal obligations, in accordance with the Labour Code”* (National Commission for Data Protection: Grand-Duchy of Luxembourg 2021).

## 6. Discussion

The analysis supports the notion that securitization theory is possible to be implied in a transnational context. Essentially, this discussion chapter aims to provide further answers to the research question of this thesis *“To what extent is securitization theory used in case of the EU’s framing of use of personal health data to curb the spread of Covid-19?”*

Firstly, the aim has been to understand whether there are any correlations seen within the analysis. The analysis shows correlations within different variables. The negative correlations observed relates to fragmentation and solidarity, which constructs the framing of the Covid-19 pandemic as a securitization threat. Essentially these correlations link to Questions three and four in the analysis, discussing what is said and unsaid and understanding the power relations. The correlation here is that the higher the fragmentation is within the Member States’ response, the less power the EU has. The 3<sup>rd</sup> question of the analysis which discusses what is left unsaid/ said argues this fragmentation comes from underdefined concepts in the GDPR. There is a lack of specific definitions as the EU aims to appeal to a homogenous and politically diverse environment which the EU operates in. It further comes from the character of GDPR as a Regulation, which leaves room for interpretation and can be implied based on the State’s individual judgement. The fact GDPR was implemented prior to Covid-19 pandemic plays a role too, as it does not present securitization measures but rather outlines principles under which health data must processed during ‘normal’ circumstances. GDPR is not the document which securitizes the Covid-19 pandemic as a threat, the other two documents are. However, GDPR is used as a legislation which needs to be followed by the Member States when processing personal health data, and that is why it is important. As discussed in the analysis, the power relations are affected by this fragmentation. The higher the fragmentation within the EU’s response, the more power each Member State has. A contradictory argument found in the analysis is that the higher the fragmentation, the more prominent the individual weaknesses will become.

This thesis started with a setlist expectations about securitization done in an international context, which are highlighted in the literature review. These expectations were regarding decisions by the IOs in emergency situations regarding global health. IOs have the power to legitimize specific agendas, which makes them actors of securitization. IOs emergency governance can make certain bureaucratic decisions, which can make them actors of securitization crisis (Hanrieder and Kreuder-Sonnen 2014, 336). This expectation was met, as

the analysis showcases the role of the EU as the securitization actor addressing the Member States and calling them to action.

However, the securitization theory was originally based on a state-centric viewpoint (Balzacq, Léonard, and Ruzicka 2016, 502). This thesis aimed to understand whether an IO, in this case the EU, can act as a securitization actor. The expectations were that yes, it can, but it would result in different implications and processes than in case of a state acting as a securitization actor. Another expectation this thesis has worked with based on the previous research was the expectation of analysis of EU's securitization will be difficult due to its character and diversity. This expectation was partially met, as perhaps the biggest challenge was to differentiate the roles of the actor and audience. However, this was done by defining the chosen Member States as empowering audience. There was an expectation that there would be certain levels of fragmentation within the Member States' responses, and this expectation was met. Perhaps the most surprising factor was that regional placement of the chosen State did not play as prominent role as expected.

These expectations can confirm that securitization can be carried in an international environment. However, the analysis showcased that there are limitations to the EU securitizing a global health issue, as the EU cannot directly influence national security of its Member States. The most unexpected finding was that within EU's securitization of a threat the Member States as empowering audience carries more power than the actor. Coming from documents used for the analysis, the States are the ones with the power to accept/reject measures presented by the EU and adjust them accordingly to their own emergency plans. This is based on the EU as a complex system, which needs to appeal to many different political systems with their measures and legislations.

As discussed before, previous research has been done on the topic of pandemics securitized as global threats. These documents recognize securitization of health threats as an activity done by IOs. Within the literature, the WHO has previously acted as a securitization actor in previous pandemics. These documents essentially deal with a different IO than EU, and present different securitization measures, however these sources suggest that previous pandemics consisted of similar frames. Davies claim that the WHO also called for a coordinated response within the states (Davies, 2008, 302). Similarly, to the responses of the EU in pandemics in 2003 the WHO developed surveillance and contact tracing mechanisms under framing it as urgency (Davies, 2008, 307). Similarly, to the current situation, the WHO's surveillance measures occurred at the same time as the states increasingly linking infectious diseases with national security (Davies, 2008, 306) Similarly to now, the states in

2003 were advised against acting on their own but to support the WHO in their efforts to create a global action plan against these infectious diseases (Davies, 2008, 309). It was stated that states should not isolate themselves in such emergencies, but rather they should follow the global efforts at reducing the threats of infectious diseases. Investments should be made in people and in enhancing international cooperation “*for health as for many other arenas, are prerequisites for security*” (Davies, 2008, 310). Similarly to the EU in 2020, the WHO in 2003 understood that global health threats present a threat for a normal functioning of societies. The WHO argued similarly to the EU when claiming that its mandate positioned it as an IO into a position to coordinate infectious disease surveillance and response (Davies, 2008, 310). Similarly to the EU, the WHO at the time of SARS understood that for successful surveillance of the infectious diseases’ states must cooperate. Similarly, to the EU, WHO managed outbreak response in several states simultaneously. This means that similarly to WHO during SARS pandemic, EU as an IO received the power to control the agenda surrounding a specific area (Davies, 2008, 312). The aim of the EU is like the one of the WHO, Davies (2008) which is to create a framework during emergencies to which the countries comply to (312). Similarly to the WHO, the EU aims to increase their authority in global health governance, and this is done by institutionalizing and legislating documents. “*Securitization and the Power of Threat Framing*” used in the literature review speaks of securitization by the UN’s Security Council, which is another type of an IO making securitization moves, and this study showcases similarities within the functioning of both organizations. Similarly, to the EU, the Security Council is a specific securitization setting (Rychnovska, 2014, 13). The role of the audience is different in this case to the way audience is defined by the Copenhagen School as state centric (Rychnovska, 2014, 13). This is a similar result to the one showcased in the analysis of the thesis. By direct involvement with the actor, the audience can actively participate in shaping and adjusting threat image. Securitization in this setting can therefore be understood as “*audience-centric, pragmatic act*” (Rychnovska, 2014, 13) The settings in which threats are securitized are also similar. For example, Rychnovska (2014) suggests that the environment in which actors aim to securitize issues in is very dynamic, linguistic, cultural, and institutional context (14). Moreover, the traditionally proposed speech act analysis is not appropriate in this context based on the situatedness of securitization. Similarly, to this thesis, Rychnovska (2014) uses threat framing in an IO context, and similarly to this thesis, she showcases extraordinary measures which were framed to eliminate the threat. Similarly, to the EU, the UNSC uses urgency language and the global relevant to create a strong mobilization intent (21) This is

done through the use of language as: “*its global outreach, lesser reliance on direct state support, and greater destructive potential*” (24). Another similarity is that securitizations lead to new policies, which can overstep the traditional competencies of the IO (Rychnovska 2014, 24). These similarities can add to the research question, that securitization can be largely applied in the international context, unlike what the claims of Copenhagen School suggested when putting securitization in the nation-state context. When an IO is put into the position of a securitization actor, it can securitize a threat. However, as showcased in the literature and the analysis chapter of this thesis the nature of actors and audiences differ to what Copenhagen School defined them to be. The literature and this thesis suggest that the actors have different power if the actors are an IO. Where this research differs to other research done on the topic is within the power of the actor, which is the EU. As shown in the analysis, the EU’s goal is to generally obtain more power. This could be seen in its framing of creating a stronger European Health Union and creating GDPR which ultimately provides the Member States with rules to follow. However, unlike the WHO the pandemic did not necessarily strengthen the position of the EU, as showcased in the analysis. The EU has only limited power and heavily relies on the Member States’ approval of the securitization measure, which is processing personal health data. It is shown in the analysis that fragmentation within the Member States’ responses was addressed as the biggest issue when the EU securitizes Covid-19 pandemic as a threat. Within framing Covid-19 pandemic as a security threat fragmentation needs to be addressed and avoided, however the issue here is that the EU has only limited powers to avoid this fragmentation. The literature suggests that audience has a lot of power to react to the measures, however it is specifically important in case of the EU. This is because the States have the power to implement the EU proposed measures in an emergency to adjust these measures accordingly to their own judgement. This has been showcased in the analysis part of the thesis. The results of this thesis further showcase a different type of an IO acting in a global emergency like a securitization actor. As discussed in the analysis the reasons why the EU is such a unique IO is because of its diversified environment. As showcased in the analysis, Member States have different understandings of the emergencies, and different judgements on how to act during these emergencies. There was an expectation when starting the research process that States from the same regions would have similar policies. However, with the examples showcased in the analysis this could not be further from the truth. Perhaps the most prominent example of this would be comparing Hungary and Lithuania, each of the States located in the Eastern Europe region but their approaches to the pandemic and processing personal health data differ

widely. For comparison, Appendix 2 of this thesis contains a table comparing the same categories within different States. Member States also must recognize the EU's authority as a securitization actor but are more prone to framing Covid-19 as issue of their national security, rather than a global security threat. This is true for all the Member States chosen except for Luxembourg. The results of the thesis showcase that the EU needs to become more centered and stronger to become a stronger protector against global security threats. However, it is also showcased that this is quite difficult due to the character of the Member States.

As with any research, there are certain limitations which will be addressed. Firstly, it is the fact that this thesis was limited by the fact it was written while the pandemic still goes, and therefore the results of these measures are not yet foreseeable. This will happen over time, and with time one should be able to reflect on effects processing personal health data will have on the public of the Member States. Secondly, when writing the thesis documents were chosen based on their availability in English, which could be a limiting factor, as there is a viable possibility that framing of issues differs in the native languages of the countries. When selecting Member States as cases, it was limited to the official sources provided in English. As a result of this, there are more documents for some States than there are for others. For example, for Denmark, Finland, Luxembourg, and Ireland I was able to access 2 valid government reports, whereas for Lithuania and Hungary only one document was accessible. Therefore, this thesis would benefit greatly if these States provided more documents published in English which would be accessible to everyone. As all of these documents consist of institutional discourse, there were no chances of finding explicit or any other type of provocative language. Symbolic expressions also did not lead to visual symbols, like it would in the media, but rather towards verbal symbols and patterns.

For future research, this thesis would advise to look at contact-tracing apps and policies behind implementing them. This was not done during the thesis, as there were great divisions within the States and some of the chosen States (Hungary, Lithuania) did not have a contact-tracing app developed. The policies on this also divide greatly within the Member States as it is right now. In the future, this topic would benefit from carrying out a policy analysis on what these rules caused in the societies in the Member States. However, this can only be done in time when it is appropriate to reflect on these findings.

Additionally, this thesis answered the research question as securitization theory does not need to happen in a state-centric context, and IOs can be a securitization actor. However, the powers and responsibilities when framing a global issue as a security threat differ greatly when this is done in a diversified environment, like the EU.

## 7. Conclusion

This thesis found that securitization is possible with the international organization in the role of the securitization actor to a large extent. Covid-19 is framed as a securitized threat, as the EU claims that health is a necessity for a functioning society. The lack of health caused by the pandemic causes for unemployment and political issues within the Member States. It further leads to disinformation and discrimination of specific vulnerable groups and minorities. Therefore, it is framed as a securitization threat. Processing personal health data is framed as an absolute necessity, as it is the most efficient method of containment and contact tracing. The EU frames it as a measure when claiming it can save lives. The EU is acting as a securitization actor, as it addresses and advice the Member States to follow specific measures, in this case this is processing personal health data. The Member States act as an empowering audience, affecting the actor's decisions but act accordingly with the measure proposed by the EU. All of the Member States implement GDPR as the EU requires data processing policies must be embedded in the national law. However, here is where the fragmentation can be seen the most prominently, as different Member States implement GDPR according to their own judgements and national policies. Verbal symbols and patterns found within the relevant documents prove that although the EU set out to achieve solidarity within the Member States. This is partially true as the Member States all create assign roles of protector/ protected entities. However, the assigned entities vary, as shown in the analysis. In Hungary and Lithuania, the employer carries out the most responsibility. In the other states this responsibility falls under the state, or in case of Ireland some responsibility is upon the employees. Employers and employees' relationships are the biggest examples of this fragmentation within the EU's aims to process personal health data. This fragmentation comes out of the silences and information which is said, these silences within GDPR are results of the Regulations being applicable in a diversified society like the EU is. They also result in the EU's aims to avoid any discriminations. Furthermore, these silences are also rooted in the character of GDPR as a Regulation, which is applied by everyone in the EU. Furthermore, principles in GDPR which give examples to how the personal health data must be processed were written pre-pandemic. All these facts influence the outcome which essentially means that the power of the Member States is significant. Therefore, Member States act as an empowering audience, meaning they get to influence the decisions the actors make.

This thesis approached the topic using comparative case study and frame analysis. This approach allowed this research to broaden its focus, understand different roles of different stakeholders, and lastly, it allows for comparison of implementation of the securitization measures within different states. The results matched with the expectations, as it showcased fragmentation, within the States, but also authority of the EU accepted by the States. Furthermore, it showcased that for the EU to become better at regulating future health threats using more direct Regulations, and stronger cooperation and solidarity of the Member States. This thesis added to the academic debate as it showcased how the EU can act as a securitization actor, and what results does this bring to the actors, who are the Member States.

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