

6/2020
June 2020

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A RESPONSE TO DR IOANNIS
SOTIROPOULOS: "THE MASS
MIGRATION AS A HYBRID THREAT TO
EUROPEAN SECURITY"**

Elena Mara



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UNIVERSITY *of* NICOSIA

1993-2020 TWENTY SEVEN YEARS OF POLICY FORMULATION AND ANALYSIS

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Press: Cyprus Center for European and International Affairs, University of
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Interpretation and Reality
**A RESPONSE TO DR IOANNIS SOTIROPOULOS: "THE MASS
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Indisputably, migration is among the issues preoccupying the political, social and security discourse in the European context. Through the years, migration and terrorism appeared to be the two key security considerations of the EU that absorb the attention and resources on multiple levels. More recently, the appearance of hundreds of people in the Greek- Turkish land borders, allegedly with the instructions of the Turkish government, led many policymakers, commentators, and academics to raise the issue to the so-called "hybrid threat" to the European security.

In his recent article "The mass migration as a hybrid threat to European security", Dr. Sotiropoulos, raised such concerns. The article rightfully observes that migration could potentially be instrumentalized by countries that want to elevate their negotiating status, as the case of Turkey. Of course, the problematization regarding Turkey's role in the migration flows to the EU has been questionable for more than a decade. Arguably, countries like Turkey could and did exploit the possibility to let potential migrants and asylum seekers through its borders as a lever pressure to obtain financially, but above all political gains from the EU.

Unfortunately though, and despite the author's intentions, the article contains some questionable points. With all due respect, I would like to raise awareness to some of those issues, to add to the broader conversation regarding migration, strongly supporting that the management of such complex and sensitive issues should be examined based on realities and facts, and not to interpretations and personal understandings.

In this response, I would attempt a brief presentation of the gray areas, and wrong interpretations in Dr. Sotiropoulos article to set the conversation on a new basis. The issues under consideration are:

1. The definition of a refugee
2. The issue of jihadist terrorism and the attention it should be given to it in the drafting of security policies
3. The EU funding to Greece in the areas of border security and migration management

Dr. Sotiropoulos deployed his arguments starting from a slippery point. In the very second paragraph of his article, he proceeds with a quite controversial declaration. I quote: "*According to international law, refugees, who are forced to displacement solely because of the wars and hostilities that take place in their homelands, are eligible for protection, exclusively, from bordering states. In the case at hand, the mass entrance of migrants in the EU, (from Turkey, Algeria, etc.), is deemed illegal, as their status can neither be considered as immigrants nor as refugees, given the fact that the EU does not border any warzone.*" This statement would have been

accepted if it was presented as the personal opinion of the author, as part of the broader conversation regarding the need for the amendment of the Refugee Convention, and not as a clarification of the international law.

The most authoritative definition of a refugee is provided in the Refugee Convention of 1951,¹ and the Paris Protocol of 1967. According to the Refugee Convention Art. 1a (2) Refugee is someone² *“owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”*

It is important here to note that this definition of a refugee is the one accepted by the EU, thus adopted both in the Art 18 of the European Charter of Fundamental Rights³ and in the EU Directive 2011/95/EU Art 2 (Qualifications Directive).⁴ The same definition appears in a series of national legislations in Greece, with the most recent being the law 4636/2019 article 2(e).⁵

At no point in this definition, or of its exclusions provided both by the Refugee Convention and the EU legal instruments one can find such a geographic restriction as the one described by the author, neither an explicit reference to the existence of an armed conflict as a definitive condition for the refugee status. Instead, the convention uses a broader wording referring to prosecution. The word “exclusively” and the presumption of armed conflict, used by the author, is thus misleading and downgrades the fact that a large proportion of the population on the move are entitled to international protection irrespective of their appearance in countries other than the bordering ones.

¹ UNHCR, “Convention and Protocol Relating to the Status of Refugees”, 2010, found at <https://www.unhcr.org/3b66c2aa10>, accessed 17/10/2018

² After the changes made in Art 1.2 of Paris Protocol of 1967

³ European Charter of Fundamental Rights, 2012, OJ C326, found at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>, accessed 16/6/2020

⁴ Directive 2011/95/EU of the Parliament and the Council “On standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted”, OJ, L337/9, found at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>, accessed 14/6/2020

⁵ L.4636/2019, ΦΕΚ 169/A/1-11-2019 found at <https://www.e-nomothesia.gr/kat-allodapoi/prosphuges-politiko-asulo/nomos-4636-2019-phek-169a-1-11-2019.html> accessed 16/6/2020.

Furthermore, the European Court of Human Rights through its case laws set certain criteria and limitations, which protect foreign nationals found in the territory of a signatory member state, irrespective of their legal status.⁶ More specifically the Article 3 of the European Convention of Human Rights, which prohibits torture, inhuman or degrading treatment or punishment, is absolute, encompassing the obligation that one cannot be returned to a place where he or she runs a real risk of being subjected to such treatment. This is the principle of non-refoulement. The Court went as far as to state, in the case of *Hirsi Jamaa and others v. Italy*, that Article 3 is non-derogable even in the cases of emergency. More specifically in his concurring opinion, Judge Pinto De Albuquerque notes that:

*"A person does not become a refugee because of recognition but is recognized because he or she is a refugee. As the determination of refugee status is merely declaratory, the principle of non-refoulement applies to those who have not yet had their status declared (asylum-seekers) and even to those who have not expressed their wish to be protected. Consequently, neither the absence of an explicit request for asylum nor the lack of substantiation of the asylum application with sufficient evidence may absolve the State concerned of the non-refoulement obligation in regard to any alien in need of international protection (...) Although the obligation in the United Nations Convention Relating to the Status of Refugees is subject to exceptions on national security and public safety grounds, no such exceptions can be found in European human rights law, nor universal human rights law: **there is no personal, time or space limit to its application. Thus, it applies even in exceptional circumstances, including in a declared state of emergency.**"⁷*

As we can observe, International Law, not only it does not include a geographic restriction for refugees, but also it provides a wider web of protection, including persons that cannot be recognized as refugees but are entitled to international protection.

Furthermore, among the focal points that this article raised the issue of the potential infiltration of Muslim jihadist terrorists in the refugee/migration flows. Arguably, this is an important parameter of the global security agenda since 9/11. However, the question raises in the current issue, is if jihadist terrorism is such an important threat to the stability of Europe, to dictate even to a lesser extent any sort of limitations to the human rights obligations of the EU towards asylum seekers and migrants.

⁶ It is important to note here that the ECtHR clarified that the issues of asylum and refugee determination are beyond its competence and that the Convention itself does not explicitly provide for the right of asylum, recognizing that the right to control the entry, residence or expulsion of non-nationals rests with the States. This clarification enhances in a sense the refugee protection, by broadening the categories of people entitled to international protection, again without including and sort of geographic restriction.

⁷ *HIRSI JAMAA AND OTHERS v. ITALY*, Application no. [27765/09](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-109231%22%7D) found at [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-109231%22%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-109231%22%7D) accessed 12/06/2020

Unfortunately, statistics prove this rational wrong. In 2018, there were 129 successful or not terrorist attacks in the EU. Ethnic-nationalists and separatists perpetrated 83 of them, 19 by left wings, and 24 by jihadists.⁸ According to this, jihadists perpetrate only 1 out of 3 attacks. Furthermore, if we compare this number with the existence of approximately 26 million Muslims in the EU⁹ it makes it disproportionate to suggest a stricter refugee policy based on the threat of jihadist terrorism. Of course, jihadist terrorism remains and should remain a security consideration, but it is disproportionate, illegitimate, and socially dangerous both to associate the thousands of asylum seekers with the jihadist terrorist networks and to demand a retreat from the long-lasting humanitarian values of the European Continent to tackle such a threat.

The issue of counter-terrorism is an issue that must be rationalized and seen in its totality. By the numbers provided above is quite evident that far-right and separatist terrorism is an even more important threat to social cohesion, an issue though that is silenced in the public discourse. It is quite interesting to observe that in the same period the total arrests for terrorism-related issues were 1567 persons, 511 of which associated with jihadist terrorist networks.¹⁰ Again, if one tries to see that as a statistical number, vis a vis the millions of Muslims in EU, reveal that it is disproportionate to elevate Muslims as that grave threat in total. Furthermore, from 2014 to 2018, 104 irregular migrants have been identified as alleged terrorists, among who 28 successfully lodge a terrorist attack. In the meanwhile, in 2015 alone¹¹ 1,015,078,¹² migrants and asylum seekers entered the EU, which give us a percentage of 0, 01%, which is close enough to be considered a statistical mistake.

Additionally, the article focus on the Sunni Muslim populations, suggesting in a sense that the migrant flows are pretty much composed by certain religious groups. In reality, though, the flows include people coming from different religious affiliations, including Shia Muslims, Christians, or even Krypto- Christians. Let us not forget that religious prosecution is among the areas included in the refugee definition. It is thus quite problematic to imply that migrants in the EU are exclusively Sunni Muslims, without providing for at least a list of different religious affiliations, or without

⁸ The statistics are to official statistic provided by Europol found at <https://www.europol.europa.eu/activities-services/main-reports/terrorism-situation-and-trend-report-2019-te-sat> accessed 12/06/2020

⁹ PEW Research Forum, "Europe's Growing Muslim Population", 29/11/2017, found at <https://www.pewforum.org/2017/11/29/europes-growing-muslim-population/>, accessed 14/6/2020

¹⁰ Europol, "Terrorism Situation and Trend Report 2019", 2019, found at <https://www.europol.europa.eu/activities-services/main-reports/terrorism-situation-and-trend-report-2019-te-sat> accessed 12/06/2020

¹¹ Todd Bensman, "What Terrorist Migration Over European Borders Can Teach About American Border Security", Center Of migration Studies, 6/11/2019, found at <https://cis.org/Report/Terrorist-Migration-Over-European-Borders>, accessed 14/6/2020

¹² BBC, "European Migration in Charts", 11/9/2018, found at <https://www.bbc.com/news/world-europe-44660699>, accessed 15/6/2020

declaring that the focus of the article is a certain religious group.¹³ Furthermore, by looking at the available data, perhaps we can answer the rhetorical question posed by the article, as to why those people are not moving towards other Sunni Muslim countries, such as Saudi Arabia. It would be interesting to observe that Saudi Arabia has not signed the Refugee Convention of 1951 nor the additional protocols and that as a matter of policy, “*asylum stem from religious tenets, respect for international law and recognition of UNHCR’s mandate*”.¹⁴ Given that according to the data the largest proportion of migrants moving to Europe are Christians, or belong to a different religious affiliation provides for the explanation as to why rich Sunni Muslim Countries do not receive as many refugees as European ones. Additionally, it is interesting to observe that the bulk of the approximately 70 million refugees around the world is found outside Europe, with Turkey, Pakistan, and Uganda being the three top hosting countries.¹⁵

Furthermore, the author celebrates the financial assistance promised by the EU to Greece for border surveillance purposes and the reinforcement of Frontex in the area as a manifestation of EUs will to tackle the issue of irregular migration. It is, though quite important to remember that Frontex has a long-lasting presence in Greece, since 2011, with significant material and human resources. Furthermore, Greece has received through the EU funds great amounts of financial assistance since 2007, for border control and returns. To make a comparison, the EU has allocated for the entire period between 2007-2020 approximately 520 million Euros for Border control and returns, while the amount for refugees accommodation and integration is 300 million (only 40 of which allocated in the period 2007-2013), excluding in both cases the emergency funding and Frontex.¹⁶ Additionally, Greece has implemented a long series of self-financed security and border control measures to tackle irregular flows. At the same time, before 2015 Greece refrain from creating even basic structures for the reception and accommodation of asylum seekers and refugees, found completely unprepared for the 2015 shock. Part of Greece's failure to

¹³ According to PEW Forum, Christian migrants in EU outnumbered Muslim Migrants. Actually, the number of Christian Immigrants doubled this of Muslim Immigrants. Unfortunately, the source does not provide details regarding the numbers of Sunni and Shia Muslims. Details found at <https://assets.pewresearch.org/wp-content/uploads/sites/11/2012/03/europe-fact-sheet.pdf> accessed 13/6/2020

¹⁴ “Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review: THE KINGDOM OF SAUDI ARABIA”, 2013, found at <https://www.refworld.org/pdfid/5135c0902.pdf>, assessed 13/6/2020

¹⁵ UNHCR, “*Global Trends- Forced Displacement 2018*”, 2019, found at <https://www.unhcr.org/5d08d7ee7.pdf>, accessed 14/6/2020

¹⁶ Even though the number is not known in its exact extent, a variety of sources suggests that Greece received more than a billion Euros from 2015 onwards on emergency funding. The most authoritative source is the EU Home affairs site, found at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/201907_managing-migration-eu-financial-support-to-greece_en.pdf accessed 13/6/2013.

manage migration flows is thus not the lack of financial assistance, but the imbalance between security and humanitarian measures, failing to grasp that the flows will never stop with security measures alone and that the diminishing of migrants protection could only harm and not protect social cohesion and security. What Greece needs is not further uncontrolled funding, nor security-oriented assistance alone, but a security assessment regarding the success of previous security measures, along with a more advanced asylum determination, reception, and accommodation system.¹⁷ Of course, EU solidarity, and the drafting of a collective multi-level policy, along with the much-needed revisit of the Dublin convention, are among the measures needed at the EU level, since Greek borders are Europe's Borders and their management should be a collective responsibility.

What surprises me though, is the regret expressed by the author, about the funding that will be available to IOM and UNHCR for the accommodation of asylum seekers in Greece. Surprisingly Dr. Sotiropoulos adopted the opinion that this assistance is channeled towards the accommodation of "illegal" migrants.¹⁸ This is nothing but misleading. First, both Helios and Estia programs are targeting asylum seekers, not even recognized refugees, and certainly not "illegal" migrants. Importantly after the EU-Turkey deal, the bulk of people found in Greece's mainland and assisted by those two programs are recognized asylum seekers and beneficiaries of international protection, and especially vulnerable.¹⁹ Additionally, the article failed to notice that those funds are recycled in the Greek economy, and there are indeed very successful cases where the Estia program assisted both migrants and the local community.²⁰ Even the source used for this argument is quite questionable. Dr. Sotiropoulos based this pseudo-fact,²¹ to an opinion

¹⁷ Allow me not to elaborate on the issue since the details are part of my PhD research, which will be complete soon.

¹⁸ I want here to note, that the term "Illegal" is by no means adopted. It would have been preferable for the author to use the widely accepted term "irregular", or "undocumented".

¹⁹ AIDA, "Housing- Greece", found at

<https://www.asylumineurope.org/reports/country/greece/content-international-protection/housing>, accessed 14/6/2020

²⁰ Livadia Municipality, "ESTIA II: Rental Accommodation Scheme for asylum seekers in Livadia", 15/1/2020, found at

<https://dimoslevadeon.gr/%CE%BA%CE%B5%CE%B4%CE%B7%CE%BB-%CF%80%CF%81%CE%BF%CE%B3%CF%81%CE%B1%CE%BC%CE%BC%CE%B1-%CE%BC%CE%B5%CF%84%CE%B5%CE%B3%CE%BA%CE%B1%CF%84%CE%B1%CF%83%CF%84%CE%B1%CF%83%CE%B7%CF%83/estia-ii-rental-accommodation-scheme-for-asylum-seekers-in-livadia/> accessed 15/6/2020

²¹ "The provisions of the programs include financial allowances, improvement of residency infrastructure, free food and clothing, free electricity and water consuming, etc. to the illegal entrants, without even distinguishing the refugees from the illegal migrants." Nearchou Pericles, "EU funded Colonization", Freepen.gr, 29-04-2020, Athens.

<http://www.freepen.gr/2020/04/blog-post-441.h>, accessed 14/6/2020

This is the source, and the quoting used by Dr. Sotiropoulos. For reasons of comparison, I provide the official site of the EU, and of UNHCR, which provides for an accurate list of the money received or been available to Greece, along with the Helios and Estia program found at

https://ec.europa.eu/home-affairs/financing/fundings/mapping-funds/countries/greece_en

article by a former Greek ambassador, while there is a variety of official data available, regarding the funding received by Greece, and the way this funding is been used.

Finally, one must be naïve to overlook the potential existence of “hybrid threats”, nor that large migratory flows can be a source of destabilization and security considerations. Nevertheless, the conversation must be made based on realities, and facts, not assumptions, manipulation of reality, and interpretations. Academics have a significant role to play in this regard. It is a win-win situation for both the academic debate and the society to rationalize the conversation and first things first to set the facts straight. I want to stress that I fully respect Dr. Sotiropoulos work and arguments, but it would be preferable if those arguments were based on realities, true definitions, and hard data.

Given the evolutions in the European political arena, migration is not a field offered for securitizing propaganda and manipulation of facts. Terrorism and migration are two issues that must be rationalized and managed through the assessment of numerical, legal, and geopolitical realities.

and

<https://www.asylumineurope.org/reports/country/greece/content-international-protection/housing>, accessed 14/6/2020.



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