

## **Abstract**

This thesis deals with the key principle of international refugee law which is the principle of non-refoulement. In the broadest sense of the term, the principle forbids the forced removal or ‘refoulement’ of an individual to the territories where he would run a risk of being subjected to the violation of his basic human rights. The non-refoulement principle was enshrined in the 1951 Convention Relating to the Status of Refugees but it was also developed in international human rights treaties such as the International Covenant on Civil and Political Rights or regional European Convention for the Protection of Human Rights and Fundamental Freedoms. Its expression can also be found in Common European Asylum System shared by the Member States of the European Union.

The first goal of the thesis is to find out the precise content of the non-refoulement principle with regard to its development and current interpretation in international law. The second aim of the study is to analyze the same principle in the context of European Union law and to assess the compliance of this system with international law. For the sake of clarity, the thesis is composed of two main chapters.

Chapter One examines the meaning of the principle in the Convention Relating to the Status of Refugees and takes into consideration its development in the field of international human rights law. The content of the principle is studied in accordance with the rules of treaty interpretation contained in the Vienna Convention on the Law of Treaties while additionally taking into account the writings of scholars and UNHCR. This chapter consists of four subchapters which explore successively the way of interpretation of the principle and its scope. It is argued that the personal and geographical scope of the principle is larger today and is not limited only to the territories of states. In addition, the development of the case-law of the European Court of Human Rights enabled that the states could be held responsible even for indirect refoulement. Subsequently, it is examined how the states prevent the influx of refugees from reaching their territories. Visa requirements, carrier sanctions and rules on ‘safe countries’ can jeopardize the access to the refugee status determination and the subsequent protection. They can be applied only if effective protection is provided to

refugees. The last subchapter deals with the exceptions to the principle and the absolute rule of non-refoulement in human rights law.

Chapter Two is composed of five subchapters. First, it is argued that both the Member States and the European Union have to abide by international refugee law and human rights law. Based on this fact, the accordance of European asylum law with international law is assessed. The study focuses on the provisions of the Qualification Directive, Procedures Directive and Dublin II Regulation. The author criticizes the restrictive approach to the personal and territorial scope of the non-refoulement principle adopted in EU asylum law. The analysis of the extra-territorial application of the principle is provided with the view to the recent case-law of the European Court of Human Rights which delimited the use of the non-refoulement principle at sea. The critical evaluation of the ‘non-entrée’ mechanisms which have been put in place in the EU is advocated. The ‘safe country concept’ in the Procedures Directive and the Dublin system of sharing responsibility contradict the Member States’ obligations under international refugee law and human rights law. The last subchapter examines the exceptions to the non-refoulement principle in the Qualification Directive. Finally, the thesis confirms the initial hypothesis that European asylum law contradicts in some aspects the international rule of non-refoulement.