


Violation of the Refugee Convention and the Compliance of Ratified Countries

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Abstract

Introduction: Starting the internal conflict of the refugee crisis, Syria as a refugee country which is a domino effect of the Arab Spring phenomenon where the conditions of the Arab countries began the transition from a country with a monarchical system to a democratic system, making Syria one of the largest refugee countries heading to the European Union through Greece. However, Greece's refusal to allow Syrian refugees to enter Greece has led to Greece being found to have expelled and rejected refugees who attempt to enter Greece.

Purposes of the Research: Examine and understand the binding force of the Convention Relating to the Status of Refugees 1951 according to international treaty law. Examine and know the responsibility of States that have ratified the Convention Relating to the Status of Refugees 1951, but do not carry out their responsibilities.

Methods of the Research: Using exploratory normative research methods, the problem approaches used are the statute approach, the theoretical approach, and the case approach. The sources of legal materials in this writing are primary, secondary and tertiary legal materials. The technique of collecting legal materials uses a literature study which is then analyzed qualitatively to answer the problems studied.

Results of the Research: The responsibility and compliance of the Greek State that has ratified the Convention Relating to the Status of Refugees 1951 towards refugees. Violating an important responsibility regarding refugees is the principle of non-refoulement which prohibits the State from expelling or forcing refugees back where the refugees would face threats to the life and freedom of the refugees. Greece as a party to an international treaty cannot give a reason for not complying with a treaty for national reasons. This makes Greece not comply with and fulfill the obligations of a mutually agreed agreement. Countries that have ratified have a much greater responsibility in their efforts to handle and protect refugees.

Keywords: Violation of the Convention; Refugees; State Compliance.

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INTRODUCTION

The refugee problem has arisen since the conflict that resulted in war. This is also a global issue that involves more than one country and is an impact of warring countries and neighboring countries. Based on this, it can be seen that refugees occur because of danger, so that refugees are very vulnerable to human rights violations that occur against refugees. This gave birth to treaties that are essentially the source of international law regarding refugees, namely the *Convention Relating to the Status of Refugees 1951* (hereinafter referred to as the 1951 Convention on the Status of Refugees) and the *Protocol Relating to the Status of Refugees 1967* (hereinafter referred to as the 1967 Protocol on the Status of Refugees).

Through international agreements, it can regulate various activities in relations between States and can solve various problems, especially for refugees, which are not only made by

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States, but are subject to broader international law. Herman Mosle¹ It is also argued that an agreement is a contractual bond between the subject of international law which aims to create rights and obligations for the parties. The birth of the international treaty through the 1951 Convention on the Status of Refugees defines a refugee as a person who, due to a justified fear of persecution, caused by reasons of race, religion, nationality, membership in certain social groups and political parties, is outside his or her country of nationality and does not want protection from that State.² Through international agreements on refugees, it is hoped that refugees will be protected from conflicts that result in wars.

One of the biggest refugee problems is the refugee crisis in Greece. The conflict that occurred in Syria was a domino effect of the *Arab Spring* phenomenon where the conditions of Arab countries began the transition from a country with a monarchical system to a democratic system³ that occurred on December 17, 2010⁴, However, the conflict in Syria is relatively longer than other Arab countries affected by the *Arab Spring* phenomenon. This resulted in a large number of Syrians seeking refuge for a better life through Turkey to Greece to European countries by land and sea routes.

Report of the United Nations High Commissioner for Refugees (hereinafter referred to as UNHCR) in 2011-2013⁵, where the third largest Syrian refugee is in Turkey. From UNHCR data, it is explained that Turkey is a destination for refugees from other neighboring countries. The geographical factor of Turkey which is directly adjacent to Greece. Most Syrian refugees make European countries a place to pit their fates against each other. Initially, the number of refugees was still relatively small, so it has not caused concern for EU countries. As time went on, the number of Syrian refugees became higher than in previous years.

In 2016 the European Union decided to cooperate with Turkey to prevent refugees from entering Europe. Turkey submitted a request for visa exemption for all Turkish citizens traveling to the European Continent and accelerated Turkey's membership process to join the European Union. The two parties agreed on these conditions through a mutual agreement, namely *the Joint Action Plan*⁶ on March 18, 2016. The compensation promised by the European Union to Turkey is 2.7 million pounds sterling or around IDR. 54,592,650,000 billion. The European Union also provided assistance from all EU member states amounting to €3 million⁷ or around IDR. 52.056.600.000 Billion.

Initially, the cooperation between the two countries went well. Turkey accused the European Union of delaying payments, while the EU side accused Turkey of not sticking to the end of the deal and relaxing security controls on refugee routes.⁸ Greece as a European Union country that borders directly with Arab countries such as Turkey, makes Greece a transit country to other European countries, in making their journey to Europe, Syrian

¹ Herman Mosler. *The Internasional Society as A Legal Community*, (Nederland: Sjnoff and Nor Doff, 1980), p. 95.

² UNHCR. "Convention and Protocol Relating to the Status of Refugees", <https://www.unhcr.org/id/pengungsi>

³ Ahmad Sahide. *The Arab Spring Tantangan Dan Harapan Demokratisasi*, (Jakarta: Kompas Penerbit Buku, 2020), p. 59.

⁴ Shafira Elnanda Yasmine. "Arab Spring: Islam within social movement and democracy in Middle East", *Journal Universitas Airlangga* 28, no. 2 (2015), p. 109.

⁵ United Nation High Commissioner for Refugees (UNHCR). "Stories from Syrian Refugees, Discovering the human faces of a tragedy", <http://data.unhcr.org/syrianrefugees/syria.phpinternet>

⁶ European Commission. "EU Turkey Joint Action Plan", An Official EU Website, Brussels, https://ec.europa.eu/commission/presscorner/detail/en/MEMO_15_5860

⁷ Nidah Kholidia Ulfah. "Faktor-Faktor Kegagalan Kerjasama European Union (EU) dan Turki Dalam Menangani Krisis Pengungsi di Benua Eropa", *Jurnal Pendidikan dan Konseling* 4, no. 6 (2022), p. 7703.

⁸ *Ibid.* p. 7702.

refugees use two routes, namely sea and land. This is because traveling to Europe is easier when compared to traveling to Saudi Arabia, because to get to the Arab Union countries you have to go through other conflict countries.

Greece's rejection of incoming Syrian refugees has made Greece strengthen its defenses and discourage incoming refugees. Greece has expelled 35,000 refugees, Greece has also rejected nearly 7,000,000 Syrian refugees who have tried to enter Greece and if calculated since February 29, 2020, the number of refugees that have been expelled by Greece has reached 34,778 people. Then those who were arrested after crossing were 244 people.⁹

Greek Prime Minister Notis Mitarachi said refugees who arrived in his country after March 1 were being moved to the city of Serres. From there the refugees will be deported back to their home countries. Meanwhile, refugees who entered islands in Greek waters before January 1, 2019 will be relocated to the mainland.¹⁰ In May 2023 the Greek government was caught expelling refugees from the Greek border, as evidenced by an Austrian activist in Lesbos who secretly took evidence of the recording.¹¹ This makes it possible that many refugees may have been secretly deported so far that they are unknown.

The policy of deporting refugees or expelling refugees certainly violates the principle of *non-refoulement* which has been considered the custom of international law, which prohibits the rejection and sending of refugees to areas where their freedom and life are threatened for certain reasons such as race, religion, or nationality.¹² Guy. S. Goodwin-Gill,¹³ An expert in international law, underlined the importance of the principle of *non-refoulement* in protecting human rights. According to him, this principle reflects the international community's commitment to protect individuals from persecution, and binds all countries to abide by it.

The deportation is contrary to the norms of international law that protect refugees from the risk of facing serious danger in their home country. This makes the Greek government violate an important principle of legal compliance. Leopold. J. Pospisil¹⁴ A legal expert on the concept of human relations who explains how compliance between humans can be applied in international law says that obedience to the law is usually not affected by external pressures, this is generated by internal mechanisms. Moreover, the Greek government has ratified the *Convention Relating to the Status of Refugees 1951* and the *Protocol Relating to the Status of Refugees 1967* which are the most important aspects of refugee life and the basic guarantee of the principle of non-refoulement as stated in Article 33 of the *Convention Relating to the Status of Refugees 1951* regarding the Status of Refugees on the Prohibition of Expulsion or Refoulement, paragraph (1) which reads: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. (No State Party shall expel or refool a refugee in any way to the

⁹ Kamran Dikarma and Nur Aini. "Yunani Usir Hampir 35 Ribu Pengungsi Suriah", Internasional Republika, <https://internasional.republika.co.id/berita//q6pzmx382/yunani-usir-hampir-35-ribumigran-suriah>

¹⁰ *Ibid.*

¹¹ Helena Smith. "Greek government under fire after video shows 'pushback' of asylum seekers", The Guardian, <https://www.theguardian.com/world/2023/may/19/greek-government-under-fire-after-video-shows-pushback-of-asylum-seekers>

¹² Sigit Riyanto. "Prinsip Non-Refoulement dan Relevansinya dalam Sistem Hukum Internasional", *Jurnal Mimbar Hukum* 22, no. 3 (2010), p. 1.

¹³ Guy S, Goodwin-Gill. *The Refugee in International Law*, (Oxford: Oxford University Press, (Second Edition), 1988), p. 117.

¹⁴ Leopold. J. Pospisil. *Anthropology of law: a comparative theory Hardcover (on a country's legal compliance)*, (New York: Harper and Row, 1 January 1971), p. 196.

borders of territories where his life or liberty would be threatened because of his race, religion, nationality, membership in a particular social group or political opinion)".

According to this article, refugees should not be returned to a country where they would face serious threats to their lives and freedoms. This makes the Greek government violate the principle of *non-refoulement* and does not comply with the *Vienna Convention on the Law of Treaties 1969* Article 2 paragraph (1) sub (b) which reads: "Mean each case the international act so named where by a State establishes on the international plane its consent to be bound of the treaty (Meaning any case of such an international action where a State stipulates in the international sphere its consent to be bound by the treaty)". This means that the agreement that has been agreed upon is binding so that it must be obeyed and must not be violated. Based on this background, the author would like to study more about "Violations of the Refugee Convention and Compliance of Ratifying Countries".

METHODS OF THE RESEARCH

This paper uses an exploratory normative research method, with the problem approach used is the statute *approach of the Convention Relating to the Status of Refugees 1951*, a theoretical *approach* through mutual agreement, legal compliance, state responsibility and a *case approach*¹⁵ through the case of Syrian refugees in Greece. The sources of legal materials in this writing are primary, secondary and tertiary legal materials. The technique of collecting legal materials uses a literature study which is then analyzed qualitatively to answer the problems studied.

RESULTS AND DISCUSSION

A. The Existence of the *Convention Relating to the Status of Refugees 1951* as an Instrument for the Protection of Refugees

Protection and assistance in resolving the refugee problem began in the 20th century when the first problem arose during the Russian war (revolution in Russia), when refugees from Russia flocked to Western Europe.¹⁶ The first international coordination on refugee affairs occurred with the establishment of the High Commission for Refugees by *the League of Nations* (hereinafter referred to as the LBB) in 1921 and the appointment of Fridtjof Nansen as its head. Nansen and the Commission are accused of helping some 1,500,000 people fleeing the Russian Revolution of 1917 and the subsequent civil war (1917–1921).¹⁷ Most of them were nobles who had fled the Communist government. It is estimated that about 800,000 Russian refugees became stateless when Lenin revoked citizenship for all Russian expatriates in 1921.¹⁸ As a result, they have no identity and cannot carry out legal acts.

International problems concerning refugees in their settlement were made international treaties on *the Kellogg-Briand Pact* (Paris Pact) 1928 on the Treaty on the Prohibition of War, *the 1933 Montevideo Convention on the Rights and Obligations of States*, *the 1938 Bled Agreement on the Agreement*, *the International Refugee Organization* (hereinafter referred to as the IRO) 1939 on the Refugee Problem and *The High Commissariat of the League of Nations for Refugees* in 1946. After the dissolution of the LBB and the formation of the *United Nations*

¹⁵ Soerjono Soekanto and Sri Mamudji. *Penelitian Hukum Normatif*, (Jakarta: Rajawali Perss, 2001), p. 14.

¹⁶ Sukanda Husin. "UNHCR dan Perlindungan Hak Azasi Manusia", *Jurnal Hukum* 7, no. 5 (1998), p. 27.

¹⁷ Wikipedia. "Pengungsi", <https://en.wikipedia.org/wiki/Refugee>

¹⁸ *Ibid.*

or the United Nations (hereinafter referred to as the United Nations),¹⁹ These agreements were continued by the United Nations with the adoption of the *Convention Relating to the Status of Refugees 1951*.²⁰ On the other hand, the UN also formed an IRO with a mandate to protect refugees that had been recognized by the LBB. Initially, the main purpose of the IRO was repatriation, but due to political tensions that led to the cold war, the IRO was later replaced by the *United Nations High Commissioner for Refugees* (hereinafter referred to as UNHCR).²¹

The Convention Relating to the Status of Refugees 1951 defines refugees as being defined in it as focusing on people who are outside the territory of their country of origin and become refugees as a result of events that occurred in Europe before 1 January 1951 (on the Conference on the Status of Refugees and the draft Protocol on the Status of Stateless Persons).²² As the refugee problem increased in the late 1950s and early 1960s, it was seen as necessary to expand the time and geographical scope of the *Convention Relating to the Status of Refugees 1951*. Its development was designed and agreed upon as an additional Protocol to the Convention on the Status of Refugees, namely the *Protocol Relating to the Status of Refugees 1967*.²³

This is to provide international protection to refugees and seek a long-term solution to the refugee problem. International protection strongly prioritizes the importance of the protection of Human Rights (hereinafter referred to as human rights). Everyone has the right to life and freedom, so the protection of their human rights must be guaranteed. Especially because refugees are individuals or groups who are very vulnerable to human rights violations, both in the form of violence, exploitation and discrimination.²⁴

B. The Existence of the *Convention Relating to the Status of Refugees 1951* as an Instrument for the Protection of Refugees

1. Handling Refugees in Indonesia

Efforts or ways the Indonesian government handles refugees:²⁵ a) Communicate and coordinate with the *United Nations High Commissioner for Refugees* (hereinafter referred to as UNHCR). The main purpose of this communication was to persuade UNHCR to expand the quota (*resettlement*) to third countries or countries receiving refugees. Since Indonesia is not a country that receives refugees, communication is also carried out to ensure that resettlement there does not take too long; b) Cooperate with the *International Organization For Migration*: Ensure an orderly and humane handling of migration to encourage collaboration on migration-related issues, find workable solutions to address migration-related difficulties, and offer humanitarian assistance to migrants in need, including refugees; c) Have a Legal Umbrella on Mechanisms for Handling Refugees. As described in the Immigration Law Number 6 of 2011. Article 1 paragraph (9), Article 10, Article 8, and Article 13, which regulate foreigners, are the legal basis for managing refugees. The way

¹⁹ Fadli Afriandi dan Yusnarida Eka Nizmi. "Kepentingan Indonesia Belum Meratifikasi Konvensi 1951 dan Protokol 1967 Mengenai Pengungsi Internasional dan Pencari Suaka", *Jurnal Online Mahasiswa* 1, no 1 (2014), p. 2.

²⁰ M. Huni Syam. "Perlindungan Internasional Terhadap Pengungsi Dalam Konflik Bersenjata", *Jurnal Ilmu hukum* 11, no. 1 (2009), p. 2.

²¹ Fadli Afriandi dan Yusnarida Eka Nizmi, *loc.cit*, p. 3.

²² Sigit Riyanto. "Urgensi Legislasi Hukum Pengungsi dan Kendalanya di Indonesia", *Jurnal Hukum Internasional* 2, no. 1 (2004), p. 71.

²³ *Ibid*.

²⁴ Iin Karita Sakharina. "Perlindungan Negara Bagi Pengungsi pada Masa Pandemi Global COVID-19", *Al-Azhar Islamic Law Review* 2, no. 2 (2020), p. 70-71.

²⁵ Primadasa et. al. "Problematisa Penanganan Pengungsi di Indonesia Dari Perspektif Hukum Pengungsi Internasional", *Jurnal Risalah Hukum* 19, no. 1 (2021), p. 47.

refugees enter Indonesia is assisted by this law; d) Implementation of Presidential Regulation Number 125 of 2016 concerning Refugees from Abroad: According to the provisions of considering the Presidential Regulation, Article 27 paragraph (2) of the Foreign Relations Law is implemented by the Presidential Regulation on Refugees from Abroad. The existence of this Presidential Regulation can give ministries or other organizations legal authority to deal with refugees. The Minister coordinates the handling of refugees in accordance with the Presidential Regulation on Refugees from Abroad.

2. Handling of Refugees in Germany

The government cooperated because refugees did not have access to public integration programs until their application was positively decided by taking language and vocational training courses in the German labor market.²⁶ This will increase their employment opportunities after their three-month exemption period ends. At the same time, the initiative will help the German economy by expanding the flow of new talent, especially in industries such as manufacturing, healthcare, and nursing.²⁷

3. Refugee Detention in Australia

Australia recognises the need to stop this international crime. When Tony Abbott was elected prime minister in 2013, he immediately implemented the *strategy of Operation Sovereign Borders* (hereinafter referred to as OSB).²⁸ The Australian Government's military-led border security operation, Operation Border Sovereignty, aims to deter smuggling vessels, prevent individuals from risking their lives at sea, and maintain the integrity of Australia's immigration policies. To combat transnational crime and the enormous costs of managing refugees, Operation Border Sovereignty was established. This operation is Australia's reason to avoid refugees' liability under the *Convention Relating to the Status of Refugees 1951*.²⁹

C. Binding Powers of the *Convention Relating to the Status of Refugees 1951* for Countries That Have Ratified

Countries that have ratified the *Convention Relating to the Status of Refugees 1951* have a much greater responsibility in their efforts to handle and protect refugees. Some of the important responsibilities contained in the *Convention Relating to the Status of Refugees 1951* are listed therein such as: 1) Article 3 on Non-discrimination (the application of the protection of Human Rights in relation to the state's obligations to all types of Human Rights); 2) Article 4 on Religion (freedom of religion and freedom of religious education); 3) Article 17 concerning Wage Generating Work (the right to work); 4) Article 21 concerning Housing (the right to have a place to live); 5) Article 23 on Public Assistance (the right to public assistance and assistance); 6) Article 26 concerning Freedom of Movement (the right to freedom of movement within the territory of the state); 7) Article 33 concerning the Prohibition of Expulsion or *Non-refoulement* (the right not to be expelled or returned to one's country of origin by the receiving State).

²⁶ World Economic Forum. "Lessons from Germany on successfully integrating refugees", <https://www.weforum.org/agenda/2017/01/germany-refugees-what-we-learned/>

²⁷ *Ibid.*

²⁸ Amelia Rahmawaty. "Pelanggaran Australia terhadap Perairan Indonesia: Apakah Indonesia Sudah Cukup Peduli", Forum Kajian Pertahanan Maritim, <https://www.fkpmar.org/pelanggaran-australia-terhadap-perairan-indonesia-apakah-indonesia-sudah-cukup-peduli/>

²⁹ Cakra Triwibawa. "Pengusiran Pengungsi Oleh Australia Menurut Konvensi Status Pengungsi Tahun 1951", *Jurnal Universitas Brawijaya Fakultas Hukum*, 2014, p. 7.

This makes refugees entitled to their life and freedom in the destination country. Moreover, in international cooperation carried out between countries, as well as those carried out by states with other subjects of international law, then it becomes a source of international law after it is outlined in an international agreement.³⁰

D. The Case of Syrian Refugees Who Are in the Territory of Greece

Greece's rejection of incoming Syrian refugees has made Greece strengthen its defenses and discourage incoming refugees. Greece has expelled 35,000 refugees, Nearly 7,000,000 Syrian migrants tried to enter Greece, but Greece rejected them. Since February 29, 34,778 refugees have been expelled by Greece. A total of 244 people were then successfully detained after crossing.³¹ Greece's prime minister, Notis Mitarachi, said that refugees who arrived in his country after March 1 would be moved to the city of Serres. From there they will be deported back to their home country. Meanwhile, refugees who entered islands in Greek waters before January 1, 2019 will be relocated to the mainland.³²

It turns out that Greece has been building a 4-meter-high wire fence with *thermal cameras* along the Greece-Turkey border since October 2011.³³ Greece has only strengthened its borders by mobilizing military forces and deporting illegally entered refugees. While Turkish officials deployed tear gas on Greek territory, Greek authorities used water cannons and tear gas to stop refugees from crossing the border.³⁴

The increasing number of refugees led Greece to set up camps to house refugees. From the condition of the refugee camps which are very concerning because of the density and lack of resources. Greece is cooperating with UNHCR and the European Union as a ratifying State of the *Convention Relating to the Status of Refugees 1951* for an emergency support program for the integration and accommodation of ESTIA as accommodation accommodation. However, in December 2022, the Greek government phased out the ESTIA program to restrict refugees to uncontrolled and remote camps.³⁵

In May 2023 the Greek government was caught illegally expelling refugees out of the Greek border by an Austrian activist in Lesbos,³⁶ who stealthily took the evidence of the recording. The footage is a shocking indictment of a policy that has long been denied by the Greek government. A group of 12 refugees, including children and babies aged about six months, were filmed being driven away by Hellenic coast guard officers from Lesbos, where they arrived from Turkey. Although according to the Greek government, refusals often occur at sea, or on land, where the Greek authorities argue that such actions are allowed by law to expel undocumented refugees trying to enter the sovereign territory of the Greek State.

³⁰ Efi Baadilla, Dyah Ridhul Airin Daties. "Legalitas Perjanjian Kerja Sama Luar Negeri Pemerintah Daerah di Masa Pandemi Covid-19", *SASI* 27, no. 2 (2021), p. 209.

³¹ Kamran Dikarma and Nur Aini. *Op. Cit.*

³² *Ibid.*

³³ Dane Levida. "Why Greece Shut The Shortest, Safest Route Migrants And Refugees", Huffpost, https://www.huffpost.com/entry/greece-turkey-borderfence_n_55f9ab73e4b0d6492d63ec12

³⁴ VOA. "Lagi, Bentrokan antara Pengungsi dan Polisi di Perbatasan Yunani-Turki", VOA Indonesia, <https://www.voaindonesia.com/a/lagi-bentrokan-antara-pengungsi-dan-polisi-di-perbatasan-yunani-turki/5317870.html>

³⁵ RSA. "On the termination of the ESTIA II housing programme for asylum applicants", Refugee Suport Aegean, <https://rsaegean.org/en/termination-of-the-estia-ii-for-asylum-applicants/>

³⁶ Ekip. "PBB Kumpulkan Bukti Penolakan Ilegal Yunani pada Pengungsi ke Turki, Anadolu Ajansi", <https://www.aa.com.tr/id/dunia/pbb-kumpulkan-bukti-penolakan-ilegalyunani-pada-pengungsi-ke-turki/2390462>

E. The responsibility of the Greek State towards Syrian refugees as a form of compliance of the State that has ratified the *Convention Relating to the Status of Refugees 1951*

Huh The agreement that has been made is binding and subject to the provisions that have been made, hence arises a principle in the alliance, namely *pacta sunt servanda*. The principle of *pacta sunt servanda* is considered the basis for the birth of an agreement. Greece as one of the 146 countries that ratified the *Convention Relating to the Status of Refugees 1951* and became the 15th country to sign the *Convention Relating to the Status of Refugees 1951* on April 10, 1952 and the 22nd country to access, succession and ratification on April 5, 1960.³⁷

Greece has a duty and responsibility to deal with refugees. Moreover, Greece ratified all articles of the *Convention Relating to the Status of Refugees 1951*. In the event of justifying the exemption procedure on grounds of national security or public order, the Greek government waives the obligations imposed by the provisions of Article 26 of the *Convention Relating to the Status of Refugees 1951* on Freedom of Movement, which reads: "Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances."

This is because Greece is afraid, this is often associated with concerns about a number of things, namely the prolonged economic crisis, the pressure on public infrastructure in Greece such as shelters, health, education which was already under pressure before the refugee crisis, so that the arrival of hundreds of thousands of refugees further aggravates the condition, so that Greece restricts access to the movement of refugees to other European countries. The reason for Greece's refusal to accept refugees is to maintain its national security without considering the situation experienced by the refugees. Greece's concern about the increasing number of refugees underlies several main reasons for Greece's emphasis on its national security: 1) Domestic pressure, especially due to the prolonged economic crisis, has prompted the government to take decisive action, which is more concerned with the country's problems than with the refugee problem; 2) security concerns that among refugees there are potential security threats, such as terrorism and crime, although there is no strong empirical evidence to support this claim, these concerns are often used as an excuse to tighten refugee entry policies, especially in European countries; 3) Protection of Greece's borders as a country located at the forefront of the refugee route from the Middle East to Europe, Greece feels the need to protect its country's borders in order to control the influx of refugees; 4) The burden of the Greek economy which is experiencing a prolonged economic crisis, Greece finds it difficult to bear the additional burden due to the presence of a large number of refugees.

This also underlies the reason for Greece's non-compliance with *Convention Relating to the The Status of Refugees 1951* is more concerned with the security of the country. Although the security of the State is a matter of great importance, Greece must not sacrifice the human rights of refugees. It is necessary to walk together between the two interests, despite Greece's attachment to international agreements, the sovereignty of the State is still recognized, but by ratifying a treaty, the State voluntarily limits part of its sovereignty to the common interest.

³⁷ United Nations. "Refugees And Stateless Persons Convention Relating To The Status Of Refugees", United Nations Treaty Collection, https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V2&chapter=5&Temp=mtdsg2&clang=en#EndDec Français,

Greece, which has ratified the *Convention Relating to the Status of Refugees 1951*, must have made an agreement or mutual agreement to abide by the agreed agreement. Basically, the essence of an international agreement is an agreement between the two parties who make the agreement. The agreement made certainly gives rise to rights and obligations between the parties to the agreement, so that Greece, which has bound itself to *the Convention Relating to the Status of Refugees 1951*, must comply with the rules that have been agreed, especially on the principle of *Non-Refoulement*, which prohibits States parties from expelling or returning refugees because their lives and freedoms are threatened.

This is because agreements are usually in the interests of member states, so by complying with international agreements, participating countries such as Greece should be able to balance the interests of their countries with the refugee issue. Through the agreement between the parties to the agreement, the responsibility is born so that the agreement that has been mutually agreed upon can run well, so that Greece that has accessed, succeeded and ratified the *Convention Relating to the Status of Refugees 1951* has a responsibility for refugees who enter their country through the agreement, this is related to *the primary rules* i.e. a set of rules, such as treaties, customary laws, or other legal instruments, that establish the rights and responsibilities of the State, therefore Greece must be prepared with the legal consequences of the agreement that has been agreed, this is related to *secondary rules*, namely a set of rules that are how and what are the legal consequences if *the primary rules* are violated by a State.

The actions taken by the Greek government as a ratifying State of the *Convention Relating to the Status of Refugees 1951*, violate Article 33 paragraph (1) concerning the Prohibition of Expulsion or *Refoulement*, the formulation of which means: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." This means that refugees who enter a country, let alone a country that has ratified, refugees without their complete documents are not subject to punishment for entering illegally where their country of origin threatens their lives and freedom. Refugees are still allowed to enter the destination State as long as the refugee reports to the local authorities as soon as possible and the State Party must not expel or reject the refugee, unless the refugee is found to have committed a criminal act that is punishable by a final judge's decision.

According to *the Vienna Convention on the Law of Treaties 1969 Article 26 concerning the Pacta Sunt Servanda which is intended to be formulated*: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith". This means that every agreement that applies is binding on the parties thereto and must be executed by them in good faith. This principle requires States to fulfil their obligations under the Convention and treaties that are not in line with the principles outlined in the non-binding treaties of the parties. An agreement must be executed in a manner that balances the obligations of both parties under the agreement (*treaty in force*) and is interpreted as a *valid treaty* because the agreement is based on an agreement between the two parties legally.

The Greek state must comply with what has been agreed and cannot give the excuse that its obligations are not fulfilled for reasons of national law. This is contained in Article 27 of the *Vienna Convention on the Law of Treaties 1969 concerning Internal Law and Observance Of Treaties* which is worded to: "A party may not invoke the provisions of its internal law as

justification for its failure to perform a treaty. This rule is without prejudice to article 46". This means that non-compliance due to national considerations cannot be justified by a party to an international convention. According to custom and good faith, Article 27 is a complement to the essential principle of *pacta sunt servanda*. On the other hand, Article 46 is an exception to Article 27 which deals with conspicuous violations and relates to significant and fundamental provisions of national law. The prohibition of international law against parties who violate their own domestic law. This can be a benefit from the mistake of not complying with and fulfilling the obligations of a mutually agreed agreement.

In the *Convention Relating to the Status of Refugees 1951*, there are no sanctions for States that do not comply with the refugee convention. This may make violations of refugee rights for countries that have ratified frequent violations. If the State does not comply and violates the obligations of international agreements, it can basically provide accountability by restoring the conditions that existed before the mistake occurred. In the *Responsibility of States for Internationally Wrongful Acts 2001* Article 35 Concerning Restitution which reads: "A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution: a) is not materially impossible; b) does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation. This means that reparations or the payment of reparations are the main form of reparation or damages that are violated are sustainable, because the harm suffered by refugees is moral and can only be ethically assessed due to the fact that newly arrived migrants need international protection and the right to freedom of refugees as soon as possible. In the *Responsibility of States for Internationally Wrongful Acts 2001* Article 36 paragraphs (1) and (2) regarding Compensation which reads: "1). The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution; 2). The compensation shall cover any financially assessable damage including loss of profits insofar as it is established". That is, it can be held accountable by compensating for existing damages, in cases where restitution is not possible, compensation is given after the damage has been evaluated in terms of materiality. Punishing the guilty State has no advantages, and compensation has no expressive or exemplary qualities. Although it can sometimes be in the form of other agreed upon values, compensation usually consists of a payment of money.³⁸ Greece can make restitution by no longer carrying out "refoulement" measures against refugees who come and guaranteeing a better life for refugees in Greece, so that Greece does not need to compensate because Greece can carry out restitution as a form of State responsibility.

A country that does not comply with the obligations of an international treaty can make a confession of violation. *Responsibility of States for Internationally Wrongful Acts 2001* Article 37 paragraph (2) concerning Satisfaction which reads: "Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality. This means that a state that commits an international violation should make a formal apology when the state realizes that its actions violate international law. It is also related to the principles of human rights which basically have a moral content that affects all aspects of human life, to respect, and appreciate human dignity in equality.³⁹

³⁸ Dea Olga Thenia, and Arinto Nugroho. "Tanggung Jawab Negara atas Tindakan Penolakan Pengungsi Yang Terjadi Di Italia." *Novum: Jurnal Hukum* 6, no. 1 (2019), p.12.

³⁹ Josina Augustina Yvonne Wattimena, Vondaal Vidya Hattu. "Ketahanan Pangan Masyarakat Adat Sebagai Wujud Pemenuhan Ham Dalam Masa Pandemi Covid-19", *SASI* 21, no. 2 (2021), p.247.

CONCLUSION

The binding force of the *Convention Relating to the Status of Refugees 1951* is the obedience of the ratified States to enter into agreements through compliance accompanied by a responsible attitude towards refugees which makes the ratifying State have a sense of responsibility towards the ratified convention so that the ratifying State complies with the convention as a reflection of the compliance of its State with international law. Countries that have ratified the *Convention Relating to the Status of Refugees 1951* but do not carry out the accountability of the provisions contained in the *Convention Relating to the Status of Refugees 1951* may provide restitution, compensation and satisfaction or apology under the *Responsibility of States for Internationally Wrongful Acts 2001*.

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