



EUROPEAN COUNCIL  
ON REFUGEES AND EXILES

CONSEIL EUROPEEN  
SUR LES REFUGIES  
ET LES EXILES

## POSITION ON RETURNS TO KOSOVO

### Introduction

1. In this position paper, the European Council on Refugees and Exiles (ECRE) has compiled the views of its member agencies, consisting of more than 60 organisations throughout 25 European countries, with regards to the treatment of Kosovan refugees in the countries of asylum and repatriation to Kosovo.
2. Temporary protection is coming to an end for thousands of refugees who, a year ago, fled war and persecution in Kosovo. Host states have now started to return them to the province. Reports of forced repatriation have been received from across Europe and Governments are sending signals that this trend is likely to continue. Despite calls by Special Representative Bernard Kouchner to phase returns and avoid overburdening Kosovo's capacity to integrate returnees<sup>1</sup>, **the pace and number of returns are likely to increase in the following months.**
3. Many reports from NGOs and international organisations have underlined that the situation in the region is still unsafe. **ECRE is concerned that the hastening of returns could create further instability in Kosovo** and in the region as a whole.
4. ECRE agrees that temporary protection must end. It wants however to remind those States who offered protection to Kosovans during the Kosovo crisis, that notwithstanding the end of the conflict **they are still bound by a duty to protect individuals with continuing protection needs.** Kosovo's stability mainly depends on their willingness to commonly agree on a phased and coordinated policy on returns to the region.
5. This paper should be read in conjunction with ECRE's Position on Temporary Protection in the context of the Need for a Supplementary Refugee Definition (March 1997) and in the light of other ECRE policy statements<sup>2</sup>.

### I – THE DUTY OF ONGOING PROTECTION

---

<sup>1</sup> *Open Letter from Special Representative to the United Nations Secretary-General for Kosovo, Bernard Kouchner, 13 April 2000.*

<sup>2</sup> In particular, *Position on Refugee Children* (1996) and *Position on Asylum Seeking and Refugee Women* (1997)

6. Despite the establishment of a civil administration in Kosovo and the reconstruction efforts made by the UNMIK, **Kosovo remains politically unstable and subject to major disruptions in law and order**. Recent human rights and UNHCR reports<sup>3</sup> on the situation in the region have shown that an atmosphere of impunity remains. Retaliation against minorities and moderate Kosovo Albanians still occur in spite of KFOR's presence and efforts by the UNMIK to establish an effective police force in Kosovo.
7. In line with its March 1997 Position on Temporary Protection<sup>4</sup>, ECRE therefore urges States to give **all Kosovans the opportunity to lodge an asylum application and have it examined carefully before any return takes place**.
8. Reports of persecution against certain categories of individuals amongst the Kosovan population are of particular concern to ECRE. Together with UNHCR, **ECRE urges host states to provide protection under the 1951 Convention to persons in fear of persecution because they fall into one of the following categories**:
  - persons of non-Albanian origin or belonging to a minority group<sup>5</sup>;
  - persons or families of mixed ethnic origin;
  - persons associated with the Serbian regime after 1990;
  - persons who refused to join or fled from the former Kosovo Liberation Army (KLA);
  - critics of the former KLA and former self-proclaimed Provisional Government of Kosovo and supporters of political parties not aligned with these;
  - persons known to have refused to follow the laws and decrees of the former KLA and the former self-proclaimed Provisional Government of Kosovo;
  - traumatized individuals who have experienced forms of persecution such as they cannot be expected to repatriate to Kosovo<sup>6</sup>.
9. States should furthermore **allow persons to prolong their stay under an adequate status based on humanitarian grounds** if they are members of one of the following vulnerable groups:

---

<sup>3</sup> UNHCR: *Background note on Ethnic Albanians from Kosovo who are in Continued Need of International Protection* (March 2000) and OSCE: "*Kosovo/Kosova – As Seen, As Told*" – An analysis of the human rights findings of the OSCE Kosovo Verification Mission October 1998 to October 1999 (Parts I & II), as well as subsequent UNHCR – OSCE Updates on the Situation of Ethnic Minorities in Kosovo.

<sup>4</sup> "(...) persons under Temporary Protection should have access to individual refugee determination procedures as soon as it is practicable and certainly prior to return." ECRE: *Position on Temporary Protection in the context of the Need for a Supplementary Refugee Definition*, March 1997.

<sup>5</sup> "The situation of members of ethnic communities in a minority situation within a particular location remains precarious. They face serious risk of harassment, violence or death, severely restricting their freedom of movement, often limited to small enclaves, while many continue to leave Kosovo". UNMIK: *Policy Paper on Repatriation of Kosovar Albanians*, April 2000.

<sup>6</sup> "It is frequently recognised that a person who – or whose family – has suffered under atrocious forms of persecution should not be expected to repatriate, even though there may have been a change of regime in his country (...)", UNHCR Handbook, para. 136.

- individuals with disabilities or currently receiving medical treatment which cannot be assured in Kosovo, especially for life threatening diseases or diseases causing great physical pain, or families with such individuals;
- the isolated elderly, i.e. without relatives willing and able to support them in Kosovo;
- unaccompanied minors where, according to the principle of the best interest of the child, no family members can be identified in Kosovo;
- female-headed households.

## II – THE NEED FOR CO-ORDINATED AND STAGED RETURNS

10. Returns to Kosovo must be dealt with on the basis of a truly regional approach taking into account lessons learned from the previous conflicts in the Balkans. **ECRE warns European governments of the fact that many of the reasons why predicted returns to Bosnia-Herzegovina and Croatia could not be enforced<sup>7</sup> also exist in the context of returns to Kosovo.**
11. The absence of a fully workable judicial system, the lack of an effective police force throughout the province, unemployment, ongoing shortages of available housing space and a saturated host-family system together with the problems faced by the UNMIK and voluntary agencies to provide basic services and assistance to returnees – all point to the need for **a careful and staged approach by host states to returns to Kosovo.**
12. States need to be aware that the situation on the ground often differs widely, in economic and political terms, from one municipality to another. **Returnees must be given the possibility and the means to return to their pre-war place of abode and reintegrate into their own communities.** Host states must not send to Kosovo individuals of Kosovan origin who did not live there before the crisis. Neither should they justify returns by means of “internal relocation alternatives”. Internal relocation within Kosovo may only create further destabilisation in the communities, unless some clear family ties or other strong links with another municipality in Kosovo can be identified<sup>8</sup>.
13. **Repatriation must take place in safety and dignity, and should primarily be voluntary<sup>9</sup>.** UNMIK’s capacity to provide operational support (such as social assistance, transport, shelter and health-care) for those Kosovo Albanians who have decided to return as well as for the internally displaced must not be hampered by uncoordinated mass returns from Western Europe. ECRE urges states to fully observe UNMIK’s

---

<sup>7</sup> A lack of capacity to absorb durable returns; prolonged unemployment impeding the capacity of returnees to rebuild their homes; a lack of infrastructures; continuing ethnic tensions, resentment within the local communities against returnees and numerous administrative obstacles to returns at municipal level are among the many reasons why repatriation was extremely difficult to enforce on the ground.

<sup>8</sup> States should avoid returns “that could potentially give rise to widespread and prolonged displacement”. They should adopt “a community-based approach in order to (...) facilitate the reintegration of returnees into recipient communities, by accommodating existing internally displaced persons as well as new returnees, thereby minimising any negative impact”. UNMIK: *Policy Paper on Repatriation of Kosovar Albanians*, April 2000.

<sup>9</sup> “As part of the overall strategy to maintain a staged and co-ordinated approach to return, governments should continue to give priority to voluntary repatriation”. UNMIK: *Policy Paper on Repatriation of Kosovar Albanians*, April 2000.

recommendations as to the number and profile of individuals to be returned and as to the voluntariness of their return, all of which are necessary conditions for the sustainability of the repatriation process. Host states will be judged not only on their earlier generosity towards refugees, but also on their capacity to promote refugee repatriation in a dignified and humane manner.

14. ECRE therefore supports the Special Representative's appeal for host countries to actively participate in the reception of returnees in Kosovo. **The international community, and in particular the EU, must play a full and active role in the reconstruction of Kosovo and host states be made aware of the impact of their returns policies on the ground.** Appropriate planning and coordination on the part of European governments are essential for returnees to commit themselves to the repatriation process and, eventually, for assistance programmes to succeed.
15. The Stability Pact process and its "twin agreement" in Kosovo are key to the return of the greater number of refugees and the finding of durable solutions for the region. This process is supported by ECRE. **NGOs, governments and international organisations must employ their influence in order to ensure that the pact is not only rhetoric and becomes a reality on the ground.**

June 2000

*For further information contact the European Council on Refugees and Exiles (ECRE) at:*

**Stapleton House  
Clifton Centre – Unit 22  
110 Clifton Street  
London EC2A 4HT  
United Kingdom**

**Tel +44 (0)171 729 51 52  
Fax +44 (0)171 729 51 41  
e-mail [ecre@ecre.org](mailto:ecre@ecre.org)**

**Rue du Commerce, 72  
1040 Brussels  
Belgium**

**Tel +32 (0)2 514 59 39  
Fax +32 (0)2 514 59 22  
e-mail [eucre@ecre.be](mailto:eucre@ecre.be)**