

# REFUGEE COUNCIL OF AUSTRALIA

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## MEDIA RELEASE

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### RETURN OF KOSOVARs

Meeting today in Sydney, the Board of the Refugee Council of Australia resolved to issue a statement expressing deep concern about the government's failure thus far to allow the remaining Kosovars who have expressed fears about returning, to lodge applications for refugee status.

It was noted that the Refugee Council has made many appeals to the Minister for Immigration and Multicultural Affairs to lift the ban on refugee status applications and has expressed serious reservations about the procedures employed to determine who amongst the Kosovars should be allowed to stay.

In one of these letters the Council included a statement by UNHCR's Director of the Division of International Protection in reference to Australia's Safe Haven Legislation in which she said "at law, the Convention cannot be made unavailable for persons for whom it was intended, even while its application can be delayed."

The Council's representations to government have also included a list of those groups considered to be at risk if returned to Kosovo. This list is consistent with a similar list issued by the office of the United Nations High Commissioner for Refugees and includes:

- ethnic minorities and people from mixed marriages;
- draft age males who could be considered to have evaded KLA conscription;
- people who could be perceived as having supported the Serb regime;
- female headed households without male support;
- people from areas in which ethnic Albanians are a minority, including southern Serbia;
- victims of extreme violence.

It must be noted that amongst those who have been told they must return are people who fit into these high risk groups.

An appeal has also been made to the Prime Minister in which concern was expressed about the way in which the government is attempting to justify the forced return by making reference to:

- the undertakings signed by the Kosovars that they would return;
- advice from UNHCR.

The Refugee Council's view in relation to the former is that these undertakings were signed at a time when the NATO offensive was still underway and there was no clarity about the future shape of Kosovo nor about any potential risks on return. The undertakings were signed by highly traumatised people who had just been forced from their homes and who were residing in a very crowded and ill-equipped camp in Macedonia. It is understandable both that they would have signed anything that would take them as far away as possible from the trauma and that at that time, their vision of the future would have been return.

The issue of whether it is now safe for all Kosovars to return brings us to the second issue. The Minister for Immigration has selectively quoted advice from UNHCR to argue that it is safe to return. UNHCR's advice has been that it is safe for the majority but there are particular groups who may have ongoing protection needs. The Minister's assessment of the Kosovars has resulted in the bar to applying for refugee status being lifted in some cases but not all of those in the identified risk groups. The Minister has maintained his assertion that UNHCR says that it is alright to return people claiming fears, including those who come from Southern Serbia.

In the last two days we have seen advice from UNHCR in Kosovo that:

- people should have their cases comprehensively reviewed;
  - it is not appropriate to send people from Southern Serbia into Kosovo;
- and an appeal from the Head of the UN Mission in Kosovo to governments to not forcibly return Kosovars.

On the basis of this advice, the Refugee Council contends that it is no longer possible to say that UNHCR countenances return.

By extension, the Refugee Council argues that the government can not justify its decision to return and must accept the right of these people to have their claims for protection assessed according to established refugee status determination procedures – just as any other person in fear of returning to their homeland is able to do. They have a right to have their subjective fears examined to determine whether these are well founded and if they are, to receive Australia's protection.

The RCOA Board also noted that in the last couple of days we have seen Kosovars under enormous pressure to sign an agreement that will lead to their return. They noted with concern that those who have signed have, in the most part, done so with great reluctance and there remains considerable division

amongst this highly traumatised group about what course of action is best. The mood amongst those in Australia's newest detention centre is desperate. For each moment the impasse continues, the trauma of the past is being relived .

“Operation Safe Haven started on such a high note, with the Australian public giving so generously to the Kosovars” RCOA Executive Director, Margaret Piper said. “At that time my office was inundated with calls of support from people from all walks of life offering all manner of support. Now we are receiving calls again, this time from distraught members of the community begging us to find ways to help the Kosovars. It would be a tragedy to allow Operation Safe Haven to end on this note.”

The Board of the Refugee Council called on the government to see that the legacy of the Kosovars would be one for Australians to be proud of, not a source of ongoing shame.