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POSITION ON RETURN OF KOSOVAR EVACUEES

This statement was prepared by RCOA's Executive Director who has recently returned from Kosovo where she met with representatives of international organisations and non-government agencies in order to assess the safety of conditions for return.

5th November 1999

In April 1999 the Australian Government responded quickly and generously to a call by the United Nations High Commissioner for Refugees to assist in the international effort to evacuate Kosovar refugees from Macedonia. From May to July Australia received almost 4,000 Kosovars who were granted special temporary Safe Haven Visas and accommodated in eight Haven Centres around the country.

Large scale evacuation had never been attempted before but was made necessary by the particular circumstances that existed in Macedonia earlier this year. The resultant Humanitarian Evacuation Program not only solved the immediate problems but showed that there is another way that the international community can respond to situations of mass outflow. Furthermore, it meant that, through its participation in the Humanitarian Evacuation Program, Australia was able to develop a response capacity hitherto not considered. This stood us in good stead to deal efficiently with the events that subsequently unfolded in East Timor.

The Australian Government viewed the Kosovar evacuation as a temporary initiative, in the belief that once circumstances allowed, the evacuees would return. This is in fact what has happened. About 90% of the Kosovars who came to Australia have returned to their homeland and are now in the process of rebuilding their lives. For most ethnic Albanians from Kosovo, the new era of the United Nations administration has brought freedoms denied to them for the last ten years and a sense of hope for the future.

This is not to say, however, that the way ahead will be smooth. There are still massive humanitarian and legal obstacles to be overcome before there is stability or certainty in the province.

The United Nations is very clear in the message it is giving out. No Kosovar should be forced to return to the province against his or her will at this stage. All return must continue to be voluntary. The Refugee Council fully endorses this position.

Those who have not yet chosen to return may have various legitimate reasons for this:

(i). Protection Reasons:

The speed and willingness with which vast numbers of ethnic Albanians returned to Kosovo has somewhat disguised the fact that there is still no effective rule of law in the province and there is a general atmosphere of instability. Most people are content to live with this as they see the problems as being “their problems” and a vast improvement to the oppressive regime under which they have lived for the last decade.

There are, however, particular groups of people who are at particular risk in Kosovo at this time and for whom it is agreed by protection agencies that return is not advisable:

- Kosovar Roma;[1]
- any one of Serb background, including partners in mixed marriages;[2]
- other ethnic minorities e.g. Bosniaks and Slavic Muslims;
- ethnic Albanians whose place of residence is in Serbia not Kosovo (the so called ‘Presheve Group’).[3]

It is also probable that amongst the residual population there are people who fit into one or more of a number of other categories, individuals amongst whom are also widely considered to be at risk. These categories include:

- draft age males who actively avoided (or who could be perceived as having actively avoided) KLA recruitment;
- Christian Albanians; [4]
- advocates of moderation and reconciliation (and their family members); and
- ethnic Albanians who may be considered to have close links to the previous authority e.g. those who retained their official positions in the last 10 years or in any other way might be considered a collaborator or Serb sympathiser.

It is the position of the Refugee Council that people who fall into one or more of these groups should not be returned until such time as there is a careful assessment of their individual circumstances and whether or not there is an ongoing protection need.[5]

(ii) Humanitarian Reasons:

Aside from those people who have well founded fears about returning to Kosovo, there are those who want to go back, but not yet. Any Kosovar whose home has been destroyed and/or who has no prospect of obtaining employment, would be justifiably reluctant to return to the province so close to winter. The reconstruction program is seriously behind schedule and tens of thousands of people will be facing winter in tents or other substandard accommodation. Returning such people at this time would simply add to the already considerable burden faced by the aid agencies in the province.

This reluctance would be compounded if the individual or family had been subjected to intensely painful experiences while in Kosovo as many of the population were. Some people need longer to heal and to regain the strength necessary to rebuild their lives.

The Refugee Council welcomes the recent initiative by the Minister for Immigration to seek from the remaining Kosovars the reason why they have not yet volunteered to return.

The Council believes that for this to be meaningful, the Kosovars must have access to competent, independent advice about the importance of their response and the need to make complete and honest disclosure. Such information is essential for those making decisions about whether their circumstances warrant the granting of ongoing protection in Australia or the extension of the temporary residence they now enjoy.

Australia and the Australian people have made an exceptional effort assisting the Kosovars. It is essential that the spirit of morality and generosity shown thus far is allowed to continue until

the best possible solution is found for the 10% who have not been able to return to their homeland.

[1] Roma have been targeted because of their actual or perceived collaboration with the Serbs. In early October a new expulsion of some 500 Roma from the Pristina area took place.

[2] The number of attacks against Serbs and Serb-speakers increased in October in an apparent attempt to push out remaining Serbs before the winter. This included the murder of a Serb-speaking UNMIK worker in central Pristina.

[3] UN Officials indicate that return to Serbia is not an option for the ethnic Albanians. While they can technically go to Kosovo this is not recommended as they would join the ranks of the internally displaced, further taxing the already overstretched resources of aid agencies and with little prospects for integration.

[4] A number of recent attacks against Christians have made officials fear that now the ethnic groups have been separated, some of the anger and grief will be directed towards subgroups within the Albanian community.

[5] Australia has obligations under international law not to return someone who is a refugee (as defined by the 1951 Convention Relating to the Status of Refugees) or who could face torture or other cruel or degrading treatment on return to their homeland.