

**POSITION OF
THE EUROPEAN COUNCIL ON REFUGEES AND EXILES
ON**

***SHARING THE RESPONSIBILITY: PROTECTING REFUGEES AND DISPLACED
PERSONS IN THE CONTEXT OF LARGE SCALE ARRIVALS***

1. The European Council on Refugees and Exiles (ECRE) commends the ongoing efforts of European States to establish a system for sharing the responsibility of protecting refugees and displaced persons in the context of large scale arrivals. ECRE has long advocated such actions of regional solidarity, while simultaneously calling for more positive political leadership against the widespread misperception that refugees necessarily place “burdens” upon their host societies.
2. The European Commission’s Communication of February 1994¹ makes it clear that refugees and displaced persons impose a burden only in so far as there exist “temporary absorption problems” such as a shortage of housing or other facilities in the event of a sudden large scale arrival (III.3.3). ECRE emphasises that it is the strong probability or existence of a large scale arrival, overwhelming the capacity of national refugee status determination procedures, which should activate any responsibility sharing mechanism among States, rather than facts relating to the cause of the displacement. It is irrelevant to the issue of responsibility sharing whether the cause of the large scale arrival is civil war, fear of persecution, or any other compelling reason for flight.
3. In its recent policy document², ECRE stated that “given the opportunity, refugees rapidly become productive members of the community” (para. 6). It should be remembered that, even in the context of sudden large scale arrivals, and despite the serious social problems within European States, displaced populations have much to offer host societies. However, responsibility sharing policies should always be based on the principle that the provision of international protection is a human rights imperative and not a gesture based on economic calculations.
4. ECRE recognises that the lack of a responsibility sharing agreement in Europe during the crisis in former Yugoslavia, resulting in several States bearing a clearly disproportionate share of the reception responsibility, and raising fears among other States that they would receive increased numbers, was a major factor in the decision of those States to impose visa restrictions on Bosnians. ECRE therefore supports the search for responsibility sharing

mechanisms for refugee reception in the context of large scale arrivals, in the hope that their existence might prevent the future imposition, and facilitate the removal, of deterrent measures which are inconsistent with human rights principles, particularly the right to seek and to enjoy asylum³.

5. Conclusion No.22 (XXXII) '*Protection of Asylum Seekers in Situations of Large-Scale Influx*', adopted by the Executive Committee of UNHCR in 1981, recognizes that regional responsibility sharing fora are desirable as supplements to the UN institutional framework. ECRE therefore supports the principle that a European forum should be empowered to coordinate emergency reception⁴.
6. Unless direct evacuation away from a source of danger is involved, ECRE believes that financial support to States affected by the sudden large scale arrival is, as a general rule, preferable to alternative measures involving the further resettlement of refugees and displaced persons. ECRE therefore calls on states to consider the establishment of a permanent, central fund for this purpose⁵. The financial commitment could then be shared among States but without shifting the responsibility for providing international protection.
7. ECRE believes that responsibility sharing mechanisms are only valuable in so far as they directly facilitate the reception of refugees and displaced persons. A mechanism created with immigration control as its central rationale is not likely to improve the integration opportunities of those refugees and displaced persons already accepted because such a rationale merely satisfies xenophobic elements in public opinion.
8. ECRE believes that the relationship between responsibility sharing mechanisms and wider systems of refugee resettlement must be clarified. The allocation of emergency places should always, if possible, be handled separately from other annual quotas which States may put at the disposal of UNHCR for the purpose of permanent resettlement.
9. Responsibility sharing mechanisms involving resettlement into further temporary protection must be treated with extreme caution, given the often inadequate social rights currently adhering to temporary status in many European States. So long as there exists a great variety and disparity of temporary protection regimes among and within European States, it is impossible to implement responsibility sharing through further resettlement in a way that will be fair to the refugees and displaced persons involved. As a precondition of future responsibility sharing, a similar level of protection, including basic socio-economic rights and the right to family life, should be guaranteed in all the States concerned. The relationship of temporary protection to the national asylum procedures and the duration of temporary protection should also be based on similar criteria.
10. Any responsibility sharing mechanism involving resettlement should contain a degree of flexibility in order to respect the very legitimate reasons which a refugee or displaced person may have to seek asylum in one State and not another. Family connections are the most fundamental of these reasons and States should seek to respect family unity even in emergency situations. Cultural, historical and linguistic links are also relevant criteria to be taken into account.
11. If States must undertake responsibility sharing involving further resettlement, the moving of the persons concerned should only take place shortly after arrival in the host country and should not be by force. There should be a principle of voluntariness and persuasion governing

the conduct of any such removal.

12. In June 1995, ECRE called for states to respond favourably, and in accordance with the Council Resolution⁶, to UNHCR's appeals for additional temporary protection places to protect groups of refugees and displaced persons from the former Yugoslavia. Many European States were slow to respond to these appeals, indicating not so much the absence of a formal procedure as an absence of the necessary political will. ECRE firmly believes that it is the presence or absence of this political will which determines the value and effectiveness of any new mechanism.
13. The political will to share the responsibility of refugee reception more equitably, with respect for the differing levels to which reception infrastructures have been developed, has been cast into doubt by certain policies relating to individual asylum seekers. For example, in the report *'Safe Third Countries - Myths and Realities'* (February 1995), ECRE documented a misguided policy of "burden-adding" since the safe third country practice transfers costs back to border countries with weaker infrastructures. The Report found that for all the States involved the total cost is that of possibly several admissibility procedures, examinations, accommodations, detentions and airfares before that moment may be reached where the asylum seeker's claim is examined on its merits.
14. A complex web of readmission agreements is currently transferring much of the responsibility for assisting persons in need of protection to central, eastern and southern Europe, where mechanisms of refugee protection and assistance are often less well developed. ECRE has criticised this trend as it has developed over recent years. In this context, programmes which aim to develop the infrastructure necessary for providing this assistance, including the capacity of civil society organisations, are the most cost effective of all responsibility sharing policies. Such programmes are especially valuable in terms of preparation for future emergency situations.
15. Mechanisms designed by western European States to relieve the strains of such sudden large scale arrivals should be developed in consultation with central and eastern European States. The OSCE may be an appropriate forum for this demonstration of regional solidarity.

¹ *'Communication from the Commission to the Council and the European Parliament on Immigration and Asylum Policies'*, 23 February 1994, REF - COM(94) 23 final.

² *'A European Refugee Policy in the Light of Established Principles'* (April 1994)

³ Article 14(1) of the *Universal Declaration of Human Rights*.

⁴ A *Working Paper on Temporary Protection* published under ECRE's auspices in June 1994 called for "a regional agency with firmly established communication structures in which states are permanently involved" (para 32).

⁵ The Commission's Communication (paras. 98-100) mentions a "matching system" and refers to the European Parliament's Resolution of 18 November 1992 which asked the Commission to submit a proposal for the creation of a European Refugee Fund.

⁶ *'Burden sharing with Regard to the Admission and Residence of Displaced persons on a Temporary Basis - Resolution'* First published on 20-21 June 1995. Final Text (95/C 262/01) adopted in September 1995.