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**DEVELOPMENT CO-OPERATION DIRECTORATE  
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## **Clarifying the ODA eligibility of migration-related activities**

The principles and criteria for assessing the ODA eligibility of activities in the field of migration were approved by the DAC on 6 December 2022 (ad referendum for one member until 21 December 2022). This final version is declassified.

Julia Benn- E-mail: [julia.benn@oecd.org](mailto:julia.benn@oecd.org)  
Valérie Gaveau - E-mail: [valerie.gaveau@oecd.org](mailto:valerie.gaveau@oecd.org)

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# Clarifying the ODA eligibility of migration-related activities

1. On 6 December 2022, the DAC agreed on principles and criteria for clarifying the ODA eligibility of migration-related activities (ad referendum for one member until 21 December 2022). These principles and criteria will be incorporated in the Statistical Reporting Directives. Members are encouraged to apply them in their reporting on 2023 ODA (2024 ODA at the latest).

### **Overarching principles to guide ODA reporting on migration-related activities**

*Also refer to the ODA eligibility rules on in-donor refugee costs and peace and security (Reporting Directives [DCD/DAC/STAT(2020)44/FINAL], paragraphs 98-108 and paragraphs 110-133 respectively)<sup>1</sup>*

**Preamble:** Migration is a global phenomenon connecting different regions and/or countries. From an ODA-eligibility perspective, the challenge in the field of migration is that it is not always clear whether a programme primarily aims to promote development or address domestic concerns in provider countries. Indeed, while many development co-operation activities related to migration focus on development objectives, others appear to pursue development and provider countries' domestic objectives at the same time. Furthermore, it is important to note that compatibility with international agreements or norms is not, in itself, sufficient to make a programme ODA-eligible. Nor does the fact that a programme may not be ODA-eligible imply that it is illegitimate. The principles below aim to guide ODA reporting in these situations with the goal of preserving the integrity of ODA.

**Principle 1.** As for all ODA, the reporting of migration-related activities is guided by the general rule that the main objective of ODA is the promotion of the economic development and welfare of developing countries. When assessing the ODA eligibility of activities in the field of migration, the primary purpose must therefore be considered.

**Principle 2.** There should be no diversion of ODA towards providers' immediate interests on migration at the expense of long-term sustainable development. When different ministries (e.g. migration and development) are involved in the programming of migration-related activities, in order to avoid the diversion of ODA resources, the authorities responsible for reporting ODA figures need to verify the primary objective of the programmes concerned.

**Principle 3.** While benefits to provider countries do not preclude ODA eligibility, development co-operation should not be used as a vehicle to promote the provider's domestic migration agenda. The promotion of economic development and welfare of a developing country must come before any other goals.<sup>2</sup> It is members' responsibility to present a clear rationale for ODA eligibility.

**Principle 4.** Migration-related activities included in ODA should comply with development, humanitarian and human rights objectives and principles, including the Sustainable Development Goals of the 2030 Agenda. They should generally be aligned with partner countries' own priorities and their overall development strategy. Activities that neglect the rights of forcibly displaced persons and migrants do not qualify as ODA.

**Principle 5.** Activities with the main benefit to ODA-eligible countries or ODA-eligible organisations that either promote safe and regular pathways for migration or that address irregular and unsafe migration, not promoting a provider country's domestic migration agenda, and that protect people's lives and human rights, qualify as ODA.<sup>3</sup>

**Principle 6.** Activities that intercept and return migrants with the main objective to restrict migration to provider countries are excluded from ODA.

Note 1: Some aspects of the ODA-eligibility of migration-related activities were defined in the context of elaborating the purpose code "Facilitation of orderly, safe, regular and responsible migration and mobility". See DCD/DAC/STAT(2018)23/REV3.

Note 2: A primary goal can be identified as being fundamental in the design and expected impact of the activity and which is an explicit goal of the activity. It may be selected by answering the question: "Would the activity have been undertaken without this goal?" In case of doubt on the primary goal (domestic migration interest vs developmental goal) of a given activity, members are advised to consult the Secretariat or they should not report it as ODA.

Note 3: The rules on in-donor refugee costs mention relevant exclusions in this context.

### **Criteria for assessing the ODA eligibility of activities in the field of migration**

When reporting to the Creditor Reporting System, migration-related activities should be clearly described with the necessary details, as the project descriptions are essential for verifying the ODA eligibility of migration-related expenditures. Special care has to be taken to describe the expected outcomes of migration-related activities that involve co-operation with the police or the military. As for all ODA reporting, the Secretariat has a role in verifying the ODA eligibility and, in case of doubt, can ask providers concerned for more information.

**Criterion 1.** Projects which are not in line with applicable international law and applicable international frameworks for migrants and refugees, such as the Global Compact for Migration and Global Compact on Refugees (as relevant), as well as the SDGs, are not eligible.

**Criterion 2.** Development co-operation programmes can be part of a broader policy dialogue with the beneficiary country, including in the field of migration. Development funds might e.g. make the developing country more willing to co-operate in the return and readmission of rejected asylum seekers and irregular migrants. However, if the delivery of funds within an activity is subject to specific conditions on migration outcomes, the funds are not reportable as ODA unless it can be demonstrated that the conditions imposed primarily contribute to the promotion of the economic development and welfare of developing countries, and not primarily to the donor's domestic migration concerns.<sup>12</sup>

**Criterion 3.** To help identify the main objective – and hence facilitate the ODA-eligibility assessment – of projects with mutual benefits to the provider and recipient countries, the expected development-enhancing results of the interventions as well as the projects' objectives and respective results indicators should be considered. They can inform of the extent to which the projects pursue domestic migration interests. The overall framework and narrative at programme level that underpins the project also needs to be verified and possibly checked in light of specific questions to confirm eligibility. Examples of questions<sup>3</sup>:

- Does the narrative make specific reference to the provider country's domestic migration interests, "migratory pressures" or the "refugee crisis"? (To what extent? e.g. principally, exclusively?)
- Does the intervention aim to restrict migration? (Any form of migration? Through coercive measures?)
- Does the intervention provide only a short-term response to temporary migration patterns and temporary interests with no ambition to contribute to sustainable development?

**Criterion 4.** Addressing irregular migration entails co-operation on border management between provider countries and developing countries for a mutual benefit. However, the primary motivation of this co-operation can be unclear. The boundary between ODA and non-ODA eligible activities in the field of border management is determined based on their primary objective (see also Principle 3).<sup>4</sup>

- Types of ODA-eligible activities:
  - Civilian activities that build the capacity of developing countries to improve the administration of measures related to the movement of persons and goods (strategy and policy development as well as legal and judicial development, including the organisation of border management systems) when the main objective is the promotion of economic development and welfare of developing countries, in particular:
    - Activities to adopt global best practices for good governance (e.g. identity management, document verification, fight against corruption).
    - Activities to protect migrants' human rights.
    - Activities that promote the establishment and implementation of procedures and processes for safe, orderly and regular migration in the best interest of migrants and their well-being (activities with a focus on making mobility safer, human security, awareness campaigns, social and medical services, provision of safety and/or humanitarian or medical assistance to migrants).
  - Capacity building activities that deter, prevent and fight migrant smuggling or trafficking in human beings when aimed at protecting migrants against abuses.
  - Collaboration/capacity-building between provider and developing country in the areas listed above.

- Rescue of migrants when it is the main purpose of the operation. Only additional costs related to the operation may be counted.<sup>5</sup>
- Specific exclusions from ODA:
  - Activities that support developing or developed countries' border authorities with the main objective to restrict migration to the provider country.
  - Border control projects i.e. border checks and border surveillance activities for the purpose of constraining migration (e.g. construction of a wall, installation of barbed wire, other border control projects where the main objective is to intercept and return migrants) or that are directly related to army or lethal action of security forces, or that entail military type border and territorial surveillance such as armed drones or kinetic patrolling.
  - Training for border guards and building the capacity of border patrols administration, except in support of ODA-eligible types of activities listed above.

**Criterion 5.** Assistance to forced returns is excluded from ODA. For other returns, the eligibility depends on the country of departure (see Figure 1):

- Assistance to migrants for their safe, dignified, informed and voluntary return to their country of origin is eligible in the case of returns from another developing country.
- For costs of return from provider countries, as well as expenditures for return and reintegration incurred in provider countries (pre-departure assistance), the rules on in-donor refugee costs apply (Reporting Directives, paragraph 98 onwards).

**Criterion 6.** Sustainable reintegration programmes<sup>6</sup> qualify as ODA if they primarily focus on the economic development and welfare of developing countries. Reintegration activities undertaken in countries of origin are in principle ODA-eligible irrespective of the status of returnees (forced or voluntary). Reintegration support that exclusively targets returnees from the provider country may be considered eligible only if it is demonstrated that it enables sustainable reintegration and does not primarily aim to address the donor's domestic migration concerns.<sup>7</sup> (See Figure 1.)

**Place holder for Criterion 7.** [*Criterion 7 on labour mobility is still being finalised. It will be incorporated in the Statistical Reporting Directives at a later stage, as and when it is agreed by the DAC.*]

**Criterion 8.** Engagement with diaspora in provider countries without a clear developmental or humanitarian aim for the primary benefit of the origin country, and/or promoting the provider countries' domestic migration agenda is not eligible.

Note 1: It is the obligation of members to describe the characteristics of their aid for these activities in their CRS reporting, including the conditions imposed, and share an ODA-eligibility assessment upon request by the Secretariat.

Note 2: In relation to criterion 2 on conditionality, members commit to include in the Casebook examples – ODA and non-ODA – which illustrate the treatment of activities subject to conditions relative to the future fulfilment of readmission agreements or other specific migration or border measures.

Note 3: A positive reply to one of these questions should prompt further scrutiny of the activity's main objective, to confirm its ODA eligibility.

Note 4: Specific exclusions apply to training of partner country military personnel. It is generally not eligible, including in non-military matters, except for training, under civilian oversight and with a clear developmental purpose for the benefit of civilians, in a limited number of areas, see paragraph 112 of the Reporting Directives.

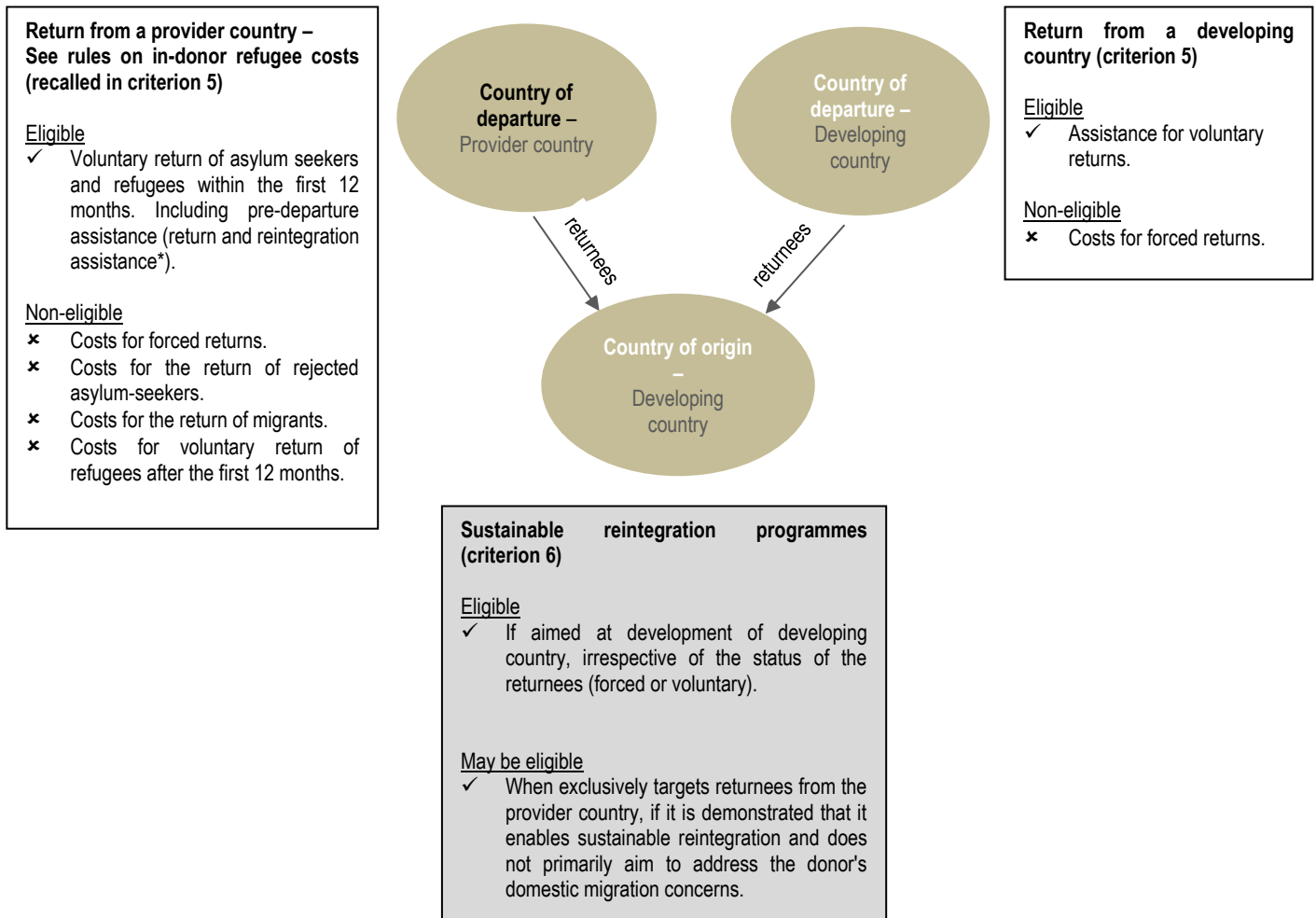
Note 5: To determine the eligibility of rescue-at-sea, the main purpose of the maritime activity involved needs to be considered. If the main purpose for official vessels to patrol the waters is protecting borders, expenses incurred for rescue-at-sea should not be counted as ODA, as this is only a secondary activity (which is in any case a duty to coastal states). If the main purpose of the patrol is to identify potential needs for rescuing refugees at sea, additional costs may be counted as ODA. See the Reporting Directives, Annex 18, paragraph 31.

The concept of “additional costs” is explained in the Directives, paragraph 112. The rationale for not counting the regular costs of the activity in ODA is to acknowledge that the *raison d’être* and thus the primary objective of coast guards is not rescue-at-sea. In this context, only additional or “extra” costs associated with the ODA-eligible task are reportable as ODA.

Note 6: See the IOM overarching, programming and measurement standards for integrated, multidimensional and sustainable reintegration programmes.

Note 7: In relation to criterion 6 on reintegration, members commit to include in the Casebook examples – ODA and non-ODA – which illustrate the treatment of payments or access to programmes specifically offered to individual migrants, forced returnees, rejected asylum seekers or refugees after the first twelve months as an incentive to leave the donor country.

**Figure 1. Illustration of the rules on ODA-eligibility for return and reintegration, depending on the country in which expenditures occur**



\* Reintegration support provided in a donor country in connection with the return from that donor country (i.e. pre-departure assistance) is not eligible in the case of forced returns, rejected asylum seekers, migrants, refugees after the first twelve months.

Source: Reporting Directives, completed by the Secretariat on the basis of the agreed criteria