

## CSO recommendations on the DAC's new purpose code for the "Facilitation of Orderly, Safe, Regular and Responsible Migration and Mobility" - January 2018

*This submission has been prepared collectively by a group of civil society organisations from the global south and the global north<sup>i</sup>. With this paper, we present joint recommendations to the DAC regarding the development of a new reporting code for the "Facilitation of Orderly, Safe, Regular and Responsible Migration and Mobility" (DCD/DAC/STAT(2017)23/REV2), which aim at protecting the integrity of Official Development Assistance (ODA).*

Increasing domestic pressure in many donor countries to stem migration from developing countries is putting ODA at risk of being instrumentalized for the benefit of donor countries. With migration-related activities becoming more and more predominant in many donors' development rhetoric and policies, it is critical that the DAC strengthen its oversight and reporting tools to monitor how this translates at the level of donor programs and projects, and to ensure that these indeed "promote the economic development and welfare of developing countries" and do not "pursue first and foremost providers' interest (e.g. restricting migration)".

In this regard, the proposed new reporting code for the "Facilitation of Orderly, Safe, Regular and Responsible Migration and Mobility" under discussion at the DAC could potentially improve ODA tracking. We however wish to draw DAC members' attention to the importance of carefully assessing and discussing this proposal, given that it will carry important political and policy implications for the integrity of ODA.

We welcome the DAC's efforts to better track migration-related activities:

- We believe that a new code, if designed and implemented carefully, will enable more transparency and better tracking of donors' support to such activities.
- We also welcome the DAC's effort to align the code's wording with that of SDG 10.7.
- We are glad that many of the activities covered by the code aim at improving the conditions and rights of people on the move (e.g. "maximise the development impact of migration", "reduction of vulnerability of migrant workers", "support to trade unions, CSOs and the media", "support to mainstream protection and assistance to refugees", "ensure access to justice and assistance for internally displaced persons").
- We acknowledge the important reaffirmation that "Only those activities whose primary purpose/motivation is to promote the economic development and welfare of developing countries qualify as ODA. Activities that pursue first and foremost providers' interests (e.g. restricting migration) are excluded from ODA" (§10).
- We also welcome the commitment to a specific review by the DAC Secretariat in 2019 to scrutinize and assess the eligibility of projects reported by DAC donors under this new code.

However, in our view, the proposed code is a **de facto expansion of ODA, and poses important risks for the integrity of ODA:**

- **We worry that this reporting code opens the door for DAC members to report as ODA activities that serve donors' interests rather than the sustainable development of developing partner countries and the poorest and most vulnerable people, through the inclusion of activities conducted for "mutual benefit".** The latest draft, which implicitly allows inclusion of activities conducted for "mutual benefit", risks diluting the core principle that ODA's primary purpose should be to promote the economic development and welfare of countries in the global south.<sup>ii</sup>
- **We consider that the creation of this new code, allowing the reporting as ODA for a broad range of migration-related and mobility containment activities, constitutes an expansion of ODA eligibility** and we worry that it is meant to broaden ODA eligibility of

recent donor programs, such as the EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa ('the EUTF Africa'). Existing reporting rules do not explicitly mention many of the migration-related activities that are included under the new code. The DAC's Converged Statistical Reporting Directives for the Creditor Reporting System only refer to "immigration" and "migrants" twice: in the context of security-related activities, and in the context of in-donor refugee costs<sup>iii</sup>. Some donors are already reporting on projects that may be eligible under the new code, including "enhancing the development impact of remittances"; "improv[ing] migrant labour recruitment systems"; and "policy development... to address irregular migration" under existing general purpose codes such as 130, 150, 151 and 160<sup>iv</sup>. However, these existing reporting codes do not explicitly allow for such operations to be counted. In particular, reported projects involving diaspora include components involving communities in donor countries or encouragement of diaspora from donor countries to return to countries of origin<sup>v</sup>. This new code 151xx thereby crosses a line in explicitly saying that these activities are eligible.

- **We are concerned about the eligibility of measures to "address irregular migration", especially due to the inclusion of capacity building for "legal and judicial development, including border management"**. Irregular migration has no clear or universally accepted definition and may refer to any movement across borders outside regulatory norms. Unlike smuggling and trafficking, it is not a crime and fighting it through legal reform will not bring development benefits.<sup>vi</sup>

Fighting smuggling and trafficking is currently eligible in DAC reporting, within the existing limits of support to security forces<sup>vii</sup>. But adopting a similar approach to irregular movement will only serve the interests of European and other donor countries in stemming migration. Furthermore, it is counter to development efforts to stigmatise irregular migrants by aggregating them with smugglers and traffickers, or making their mobility *illegal*, rather than working to make it *safe and orderly*. We worry that including this stigmatizing terminology in the new reporting code may allow donors to report as ODA projects that support judicial and legal reforms to criminalise irregular movement or prevent victims of abuses from fleeing the countries in which they are persecuted, with the long-term result of undermining development goals in hope to stem migration flows to European and other donor countries.<sup>viii</sup> The right response should be about protection of migrants, rather than restrictions.

- **We are concerned that the inclusion of activities to support the return and reintegration of migrants risks blurring the line between development and the migration agenda. In particular, we are concerned about the deletion of the word "voluntarily" from the sentence "assistance to migrants voluntarily returning to their country of origin"**. This concern is strengthened by the example of eligible activities: *"Sustainable reintegration of migrants returning from a donor or developing country to their country of origin"*.

While returnees are often vulnerable and may require assistance, returns and integration programmes should only be ODA-eligible if they fit within other purpose codes. In the recent past, several returns programmes have been designed to pressure migrants, including asylum seekers, to give up on legal rights and refugee status, in exchange for post-return assistance.<sup>ix</sup> Support for return and reintegration should only be ODA eligible if it fits in a program of assistance based on needs and vulnerabilities, not based on migratory status and, therefore, should be captured and reported under another relevant purpose code. In this context, we consider the use of the term "countries of origin" to be problematic. Geographic allocation of development aid must be in accordance with development needs; a country or region's potential to be a source of outward migration in itself is not an appropriate criterion for receiving aid.

- **The new code bundles together projects aiming to contain mobility with projects that aim to make it safer and easier**. Without a clear distinction between projects aimed at reducing movement and those aiming at improving it, commitment to development aid

objectives is confused and at risk. We worry this will obscure reporting in the case of programs such as the EUTF Africa, under which only 3% of migration-related projects are dedicated to developing, or supporting African authorities to develop, orderly, safe and responsible migration, while more than half of this budget is allocated to restricting and discouraging migration<sup>x</sup>.

- **We worry that the scope of activities to “improve migrant labour recruitment systems” could be interpreted too broadly, leading to the inclusion within ODA of activities that have adverse consequences for migrant workers’ rights.** The human rights risks facing migrant workers have been extensively documented.<sup>xi</sup> While we recognise that many activities under the proposed code would seek to reduce such abuses, “improvement” of recruitment systems is open to interpretation, and could also encompass activities that make the system more efficient for recruiters, irrespective of whether they respect the human rights of migrants.

Based on the above, and in order to protect the integrity of ODA, promote its accountable use, and increase its transparency, we urge DAC members to:

1. **Extend the timeline for approval of this new reporting code**, to enable further discussion and proper consultation with key stakeholders, such as partner countries, CSOs, and expert agencies such as the UNHCR, IOM, UNDESA. We are glad to see that the Secretariat included a proposal to commit to review the purpose code to ensure its consistency with what will be agreed at the 2018 Global Compact on Migration, and to closely monitor the implementation and verify the eligibility of projects reported under the new code. We ask that this review be conducted in consultation not only with relevant UN agencies, but also with civil society organisations and partner countries.
2. **Reinstate language that excludes “cooperation between developed and developing countries on various aspects of migration for a mutual benefit”**, to align with the core requirement that ODA should prioritise the economic development and welfare of countries in the global south.
3. **Remove the word “regular” in the title and body of the code** and remove the reference to “irregular migration” in the context of strategy and policy development to address smuggling and trafficking, in order to avoid using ODA to make mobility illegal.
4. **Keep reporting on projects aiming at ending trafficking in humans, especially women and children, under existing codes 15160 and 15180** in order to ensure alignment with the text and context of SDGs 5.2, 8.7 and 16.2, and proper DAC guidance, informed by development objectives and human rights, not migration control.
5. **Delete the reference to “addressing the root causes of migration”** and replace it with “addressing root causes of forced displacement”, which was the wording used by in the recent OECD publication on [Addressing forced displacement through development planning and assistance](#).
6. **Remove the reference to assistance to return and to sustainable reintegration in “countries of origin”**, to ensure that aid is allocated based on needs identified under other purpose codes, and not according to donors’ migration-related priorities.
7. **Maintain the clarification that this purpose code only includes support to the development objectives of developing countries on the DAC list of ODA recipients, and explicitly excludes in-donor refugee costs.**
8. **Explicitly state that any activities to “improve migrant labour recruitment systems” should only be included within ODA if they put in place or increase safeguards to ensure that the rights of migrants are respected and protected.**



With the support of Concord Europe

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<sup>i</sup> Please see the list of CSOs endorsing this statement at the end of the document

<sup>ii</sup> As work on untying has shown, activities conducted for ‘mutual benefit’ can in fact seriously constrain development impact for countries in the south. Eurodad, ‘Unravelling Tied Aid’ (September 2017). Available at: <http://www.eurodad.org/Entries/view/1546810/2017/09/20/Unravelling-Tied-Aid>

<sup>iii</sup> First, in the section on peace and security-related activities (Section II.8), which explains that support to partner country police includes “support to law enforcement agencies that exercise police powers, especially the power of arrest and detention within a broader rule-of-law system (such bodies may include immigration/border, customs and other specialist civilian law enforcement agencies)”. Second, in the recently adopted changes to the section on in-donor refugee costs, which clarifies that “People in-transit, irregular and regular migrants who have not declared their intent to seek asylum, are not refugees and related costs are not eligible as ODA”.

<sup>iv</sup> See for example [https://ec.europa.eu/europeaid/sites/devco/files/t05-eutf-hoa-reg-09-better-migration-management\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/t05-eutf-hoa-reg-09-better-migration-management_en.pdf)

<sup>v</sup> See for example: [https://ec.europa.eu/europeaid/sites/devco/files/mali-diaspora-eutf-18042016\\_fr.pdf](https://ec.europa.eu/europeaid/sites/devco/files/mali-diaspora-eutf-18042016_fr.pdf) and [https://ec.europa.eu/europeaid/sites/devco/files/action-document-tunisie-action-fiche-20161216\\_fr.pdf](https://ec.europa.eu/europeaid/sites/devco/files/action-document-tunisie-action-fiche-20161216_fr.pdf)

<sup>vi</sup> For more detail please see Oxfam’s paper on [Tackling the root causes of the narrative on migration and development](#)

<sup>vii</sup> See DAC reporting guidelines, §99 (on support to police) and §113 (on peacekeeping operations).

<sup>viii</sup> See, in particular, the EU’s financial support to Libyan border management in an attempt to stem migration: [https://ec.europa.eu/europeaid/sites/devco/files/action-document-libya-action-fiche-20170727\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/action-document-libya-action-fiche-20170727_en.pdf)

<sup>ix</sup> See, recently, the situation of asylum seekers in Greece forced to choose between the right to appeal a decision on their refugee status and their eligibility for a returns package:

[https://www.oxfam.org/sites/www.oxfam.org/files/final\\_joint\\_statement\\_on\\_avrr\\_policy\\_change\\_9\\_may\\_2017\\_002.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/final_joint_statement_on_avrr_policy_change_9_may_2017_002.pdf)

<sup>x</sup> Oxfam, ‘An Emergency for Whom? The EU Emergency Trust Fund for Africa – migratory routes and development aid in Africa’ (November 2017). Available at: <https://oxf.am/2zG8aau>

<sup>xi</sup> MADE Network, ‘Situational analysis: the smuggling of Togolese migrant workers and people trafficking in the Middle East and Central Africa’ (2017). Available at: <http://www.madenetwork.org/sites/default/files/080007%20-%20MADE%20Network%20report%20-%20EN%20-%20LR.pdf>. Human Rights Watch, ‘Working Like a Robot’ (2017), and ‘Red Card’ (2017). Both available at: <https://www.hrw.org/publications?keyword=migrant&date%5Bvalue%5D%5Byear%5D=>