Supplementary Guidance on the Policy on Migration

Advisory note

ACTION TO ASSIST MIGRANTS IN RETURN

National Societies have identified assistance to migrants in return as a programming area of special complexity. The present note spells out the essential rules and recommendations for strategic programming in this area, based on the relevant parts of the IFRC Policy on Migration (2009). It also reflects analytical and policy work undertaken previously by individual National Societies and regional groups, but it focuses on guidance that is indispensable and valid for all Red Cross and Red Crescent societies at the global level.

1. Background

The Policy on Migration acknowledges that returning migrants will often face challenges that may necessitate the intervention of National Societies. Assisting migrants in return to overcome those challenges should be part of an integrated and impartial approach that addresses the needs and vulnerabilities of all persons affected by migration.

Therefore, National Societies shall strive to obtain access to all returnees in need, without discrimination and irrespective of their status, and organize their services in such a way that all in need of assistance and protection can access them.

Returning migrants may be in need of protection and assistance both before and after their return. To avoid being perceived as supporting coercive action, National Societies should, as a rule, refrain from providing assistance during removal operations.

By taking action to assist vulnerable returnees in the host country and in the country of return, and by ensuring that their rights are respected, National Societies contribute to return in safety and dignity. Returning migrants who are in a particularly vulnerable situation and/or have special needs require particular attention.

To assist and protect returning migrants, cooperation and agreement between National Societies in host countries and countries of return is essential. This includes mutual support, in coordination with the IFRC, in building the capacities needed to support returnees.

“Return to the place of origin is not the necessary end or solution of migration. Migrants may prefer to stay where they are, for an extended period or permanently. While providing counselling and informing migrants about their options, National Societies cannot and shall not decide what solution is the best, and must at all times maintain their impartiality, neutrality and independence. When migrants do return they face particular challenges; to assist and protect them, cooperation and agreement between National Societies in countries of destination and return is essential.”

Policy on Migration, Principle 8
Supplementary Guidance on the Policy on Migration

Assistance to Migrants in Return

The Policy on Migration underlines that return is not the necessary end or solution of migration, and that National Societies, when working with and for returnees, are only concerned with the returnees’ own needs and interests, and not with government schemes to promote or encourage return as a preferred solution; nor are National Societies associated with the enforcement of a State’s decision to remove a migrant.

National Societies shall ensure that any information collected on returning migrants remains in the humanitarian domain. This also applies to information on conditions in countries of return collected for the purpose of providing advice and counselling.

If National Societies were to be part of policies to promote or encourage return, they would risk losing credibility and trust with migrants’ communities and ending up incapable of assisting and protecting those in need. Moreover, in countries of return, the image of the Red Cross and Red Crescent could be negatively affected. This could provoke access problems and compromise the acceptance of the humanitarian work of the Movement.

2. Programming principles

When working with and for returnees, National Societies must ensure that the following general programming principles are respected:

1. National Societies in host countries and countries of return agree to cooperate and work together to ensure effective and durable support to returnees, taking due account of the humanitarian needs of the receiving community
2. Action to assist migrants in return is based on an assessment of needs and vulnerabilities and a thorough understanding of conditions in countries of return, gained, in particular, through information collected by National Societies in countries of return
3. No action is undertaken without the agreement of the returnee(s) concerned. All activities are clearly specified, and understood by all stakeholders, in particular the returning migrants and the relevant authorities
4. Services provided by National Societies include appropriate follow-up of the situation of individual returnees after their return
5. Whenever serious humanitarian problems or serious violations of migrants’ rights and disregard for national and international law are observed, National Societies intervene with the relevant authorities, and where needed undertake additional efforts, with a view to ensuring that the rights and dignity of returning migrants are respected
6. While informing migrants about their options, National Societies do not, and are not part of government or other schemes to promote or encourage return as a preferred solution
7. National Societies are not associated with, and must not be perceived to be part of, the enforcement of a State’s decision to forcibly remove a migrant.
3. Types of action

3.1. Assistance and protection for returning migrants before and after return

National Societies in host countries and countries of return may provide assistance and protection for returnees before and after their return. This includes activities such as pre-departure counselling and support, reintegration assistance and the monitoring of conditions after return.

**Pre-departure support**

The following are examples of services that may be offered to returnees by the National Society in the host country, with the aim of facilitating return and preparing reintegration:

- advice on return procedures and possibilities to remain in the host country
- counselling on return and reintegration, providing up-to-date information on conditions and assistance in the country of return (security, work, housing, health, education, social welfare, etc.)
- restoring family links
- social and psychosocial support
- vocational training, employment promotion
- establishing contacts with the National Society and other relevant organizations in the country of return.

**Reintegration assistance**

The following are examples of services that may be offered to returnees by the National Society in the country of return, with the aim of supporting their reintegration:

- reception services, referral to relevant institutions and organizations for assistance upon arrival
- additional support in emergency cases, e.g. food, shelter, clothing, medical assistance
- restoring family links
- social and psychosocial support
- advice and assistance on services (work, housing, health, education, social welfare, etc)
- assistance to support self-reliance, including in finding employment and setting up a small business as well as ensuring access to pensions and disability benefits, etc

---

“Returning migrants will often face challenges, particularly in terms of their reintegration – but they also can contribute to the development of countries of return. When working with and for them, National Societies are only concerned with the returnees’ own needs and interests. At all times, they must maintain their impartiality, neutrality and independence. National Societies in countries of destination and return should cooperate, both in preparation of returns, and in receiving the returnees. Activities by National Societies may include pre-departure counselling and support as well as reintegration assistance and monitoring of conditions after return.

- Assistance and protection for returning migrants, before and after their return, shall be based on the agreement of the returnee. Cooperation between National Societies in countries of departure and countries of return is essential, and may include formal partner-ship agreements for the benefit of returnees.”

Policy on Migration, Guidance 8.1.
Supplementary Guidance on the Policy on Migration
Assistance to Migrants in Return

**Monitoring after return**

To develop services based on a proper assessment of return conditions, and to inform advocacy in view to promoting the rights and dignity of returning migrants, it is essential that National Societies *in both the host country and the country of return* cooperate in monitoring conditions in countries of return. This involves examining the general humanitarian situation as well as undertaking individual follow-up enquiries on issues such as security, housing, and health care.

3.2. **Response to humanitarian needs during removal operations**

As a rule, National Societies shall avoid participation in expulsions or deportations of migrants (forcible removals). Should a National Society nevertheless envisage such involvement – based on the identification of humanitarian needs that cannot be addressed by the public authorities – it must weigh this carefully against the substantial risks of being perceived as acting in support of coercive action, and thus of undermining the trust of migrants and endangering the neutrality and humanitarian identity of the Movement.

Strategic issues have to be addressed in advance of any participation in a removal operation, such as: How to guarantee that no one is removed in breach of the principle of *non-refoulement*\(^1\) or other provisions of international law? How to avoid the perception that National Societies facilitate and support the enforcement of removal decisions and the use of force? How to ensure that National Societies are not instrumentalized by authorities in order to improve the political image of removals?

If a National Society does choose to respond to humanitarian needs during a removal operation, it must obtain the prior consent of both the migrants who will be forcibly removed as well as the National Society in the country of return, and stringent programming conditions must be respected. This applies also to operations carried out jointly by several States.

\(^{1}\) The principle of *non-refoulement* – which can be found with varying scopes of application in international refugee law, international human rights law and international humanitarian law – prohibits the expulsion or removal of persons to countries where there are reasons to believe they will be subjected to persecution, torture or other forms of cruel, inhumane or degrading treatment, or to arbitrary deprivation of life.
Supplementary Guidance on the Policy on Migration

Assistance to Migrants in Return

Prior consent

The obligation to obtain prior consent requires, firstly, that the National Society in the country of return is consulted well in advance, and gives its agreement to the planned response.

Secondly, it requires that it can be ascertained, through private advance interviews with returnees to be forcibly removed, that they individually agree to the presence of the National Society and accept the services offered.

Thirdly, should the IFRC and/or the ICRC be present in the country of return, as may be the case in situations of natural disaster or armed conflict, these other components of the Movement must also be consulted.

Programming conditions

A response to humanitarian needs during removal operations must fulfil the following minimum programming conditions:

a. It shall only be undertaken in addition to protection and assistance provided before and after return (e.g. pre-departure counselling and reintegration assistance)

b. The National Society shall ensure that no one is forcibly removed in breach of the principle of non-refoulement or denied the opportunity to assert her/his individual claims through adequate procedures

c. There shall be a formal agreement with the relevant authorities that guarantees immediate action to remedy any serious problems or violations of migrants’ rights and disregard for national and international law observed by National Society staff.

d. The returnees shall at all times be able to distinguish between the humanitarian services of the National Society and coercive action carried out by the authorities; the physical separation between National Society staff and law enforcement shall be ensured

Humanitarian intervention

If all of the above conditions are fulfilled, a National Society may intervene to respond to identified humanitarian needs by providing appropriate services during a removal operation, such as psychosocial support and medical and material assistance.

Humanitarian services must contribute to the protection of the returnees against abuse and the denial of rights. Thus, programming must include provisions for interventions with the relevant authorities in case of serious problems or violations of migrants’ rights during a removal operation. To this end, private and confidential interviews with all migrants who have been forcibly removed should be held after arrival in the country of return.