



Vacancy Notice

Position Title: Consultant - A3.4 - Research on Countering Irregular Migration and Smuggling of Migrants in China
Duty Station: IOM Beijing Office
Duration: 6 months
Estimated Start Date: Immediate
Closing Date: 13 May 2021

IOM Introduction:

Established in 1951, IOM is a Related Organization of the United Nations, and as the leading UN agency in the field of migration, works closely with governmental, intergovernmental and non-governmental partners. IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants.

The International Organization for Migration (IOM) in China aims to develop, with the support of an external consultant, a research study in the field of smuggling of migrants (SOM) and the facilitation of irregular migration in and from China.

1. Nature of the study

The objective of this research is to complement available information on the facilitation of irregular migration and smuggling of migrants (SOM) in and from China. Strengthening the knowledge of EU and Chinese stakeholders on the features of these phenomena in China will support the efforts to counter irregular migration and combat transnational organized crimes (TOC) related to it.

SOM is a form of TOC that remains a global challenge, and presents the added difficulty that information on smuggled migrants and offenders in many countries around the world is not collected systematically nor is available overtime. In fact, detailed information on migrants and offenders is not usually available.¹

China, similarly to other countries in the region such as Malaysia, Korea and Thailand, hosts irregular migrants from neighbouring countries. In turn, China is also a source of irregular

¹ https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf





migration to neighbouring countries and beyond, including EU Member States (MS). Between October 2017 and December 2020, the Chinese passport was also reported to be the 6th most used fraudulently in the Asia Pacific region, according to IOM's data collected through the Verifier TD&B and the ANDEX Fraudulent Document Reporting System². This trend was on the rise starting from June 2019, when Chinese fraudulent travel documents and impostor cases started being more and more intercepted in Thailand, Lao PDR, Malaysia, Philippines, Maldives, and Mongolia. Despite evidence of the existence of irregular movements and of crimes related to such movement of people to and from China, significant gaps in understanding the features of irregular migration affecting China and its citizens and crimes related to it remain. These gaps call for expanding the existing information and deepening the analysis on this topic.

The research will provide a snapshot of SOM and facilitation of irregular migration in and out of China, aiming at contributing to shed some light on the magnitude of the phenomenon and understanding SOM as per the definition provided by the Palermo Protocol³. Furthermore, the research approach that the study will follow - revision and analysis of publicly available Chinese court sentences - is expected to contribute to a better understanding of the profiles of smuggled migrants and facilitators involved in SOM and facilitation of irregular migration to and from China.

2. Purpose of the research

The research will be developed in the framework of the '*EU-China Dialogue on Migration and Mobility Support Project Phase II*', funded by the Partnership Instrument (PI) of the EU and implemented by IOM China. This research will contribute to MMSP II third specific objective, which is: "to develop EU-China cooperation in the area of migration and mobility, by addressing migration management capacities of the competent Chinese authorities, as well as addressing the practical needs of EU Member States." In particular, this research will contribute to improve knowledge and cooperation between China and the EU on prevention and reduction of irregular migration flows stemming from China, including smuggling of migrants (Output 3).

The study will look into SOM as per the definition in the Palermo Protocol and expand the existing information on the current features of smuggling in and from China, identifying key differences between the Chinese legislative framework and the Palermo Protocol on SOM. In particular, the

² Data is limited to the number of Verifier TD&B workstations installed and in use to detect fraud up to March 2021.

³ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18





study will try to respond to questions such as whether these differences present obstacles for China when fighting against SOM as a transnational crime, as well as whether it does so for the EU, as an important destination of irregular migration stemming from China.

The study will expand the current information and features of SOM and facilitation of irregular migration to and from China by analyzing Chinese criminal sentences, which are expected to have information on the profiles of irregular migrants and a strong focus on offenders and facilitators. This information can assist China and the EU, to inform their risk analysis when combatting SOM. Moreover, the information and data gathered and analyzed can provide insights into the modus operandi of offenders and their organizations e.g. whether they use fraudulent travel documents or resort to identity fraud. These findings could also contribute to identifying thematic areas for additional study that further expand the knowledge on the topic. For example, expanding available information such as the place of detection or method of transport of irregular migrants and offenders could assist in identifying specific border sectors that may need to be further studied.

The research will have a multi-fold purpose: first, it will provide an overview of the Chinese legal and regulatory framework about countering facilitation of irregular migration (including SOM) and considerations over the similarities and differences this framework has with international legislative and policy frameworks, such as the Palermo Protocol and the GCM, and the practical implications of these differences for China and the EU in the fight against facilitation of irregular migration. Secondly, it will provide a snapshot of facilitation of irregular migration in and from China, and in particular it will look into: i) recent patterns and trends of irregular migration flows in and from China, ii) vulnerabilities and factors that may force people into being smuggled and profile of irregular migrants, iii) smugglers and facilitators' profiles, iv) the modus operandi of criminal organizations; all of which can contribute to better understand the characteristics of crimes at border sector level and strengthen law enforcement agents' knowledge on current features of facilitation of irregular migration in China, both as a source and a destination country, as well as law enforcement agents in other countries affected by Chinese smuggled migrants.

Under the framework of the MMSPII project, the findings of the study connect and can contribute to the following activities, if allowed by the time needed to develop the research:

- A2.2: Workshop on practical cooperation on return and readmission;
- A3.1: Workshops on legislative reform and criminal investigation for EU and Chinese officials (2nd of the 2 workshops);





- A3.2: Trainings for EU Embassies and consulates on victim identification (2nd of the two trainings).
- A3.3: Exchange visit on criminal investigations for Chinese and EU officials.

3. Research Approach

The research will provide evidence-based information to contribute to the available knowledge supporting the fight against the facilitation of irregular migration in and from China. It will follow a desk-based approach and will mainly focus on:

- A revision of Chinese and international legislation, regulation and policy around smuggling of migrants and the facilitation of irregular migration and considerations around the Chinese regulatory framework vis-a'-vis the Palermo Protocol on SOM.
- A revision of criminal sentences from the China Judgments Online (CJO). The court cases should refer to smuggled migrants and offenders inside China (Chinese and foreign nationals), Chinese and foreigners being smuggled out of China and foreigners being smuggled into China from abroad. Therefore, it is expected that the research analyzes criminal sentences, such as those that refer to Articles 319 and 320 of the Criminal Law. Relevant administrative law, such as Article 71 and 75 of the Exit and Entry Administration Law will not be analyzed through court sentences but all administrative laws relevant to SOM and the facilitation of irregular migrants should be identified and explained.

4. Contents of the report

The preliminary contents of the report are:

- I. Objective of the report, which should also explain the contribution of this research to already existing literature on irregular migration and SOM in and from the Chinese territory.
- II. Research methodology, included limitations that the methodology used presents and challenges encountered in the process (for example, the fact that the contents of the sentences may not always be fully disclosed, which can potentially limit the analysis).
- III. Legal framework in China: understanding the legislation and regulations on SOM and the facilitation of irregular migration in and from China, whether migrants and offenders are





- Chinese or foreigners. This should include an overview of criminal and administrative relevant legislation in China.
- IV. Comparative analysis of the Palermo Protocol and China’s legislative framework: brief overview of similarities and differences between both and what these differences imply in countering SOM and the facilitation of irregular migration.
 - V. Snapshot of SOM and the facilitation of irregular migration in and from China: analysis of criminal sentences from the CJO identifying trends, main points of entry/ origin/ transit and other features. Through the analysis of criminal sentences, the report will also identify and present:
 - a. Profile of smuggled migrants and irregular migrants in China (referring, where possible, to the Palermo Protocol’s definitions);
 - b. Profile and modus operandi of offenders and facilitators;
 - VI. Remaining areas of study that could contribute to the existing literature on irregular migration in China.
 - VII. Key findings and conclusions.

5. Deliverables and timeline:

The consultant will be responsible for all the required revisions, editing and formatting of the report until it is considered final by IOM.

All deliverables should be submitted in English.

| Deliverable | Timeline | Payment |
|---|--|---|
| Summary of progress: | 30 th June, 2021 | - |
| Draft research report , which should follow the table of contents presented in section 4 unless agreed otherwise between IOM and the consultant. | 9 th September, 2021 IOM China will provide feedback to the draft paper no later than 3 weeks after receiving the draft paper. | 40% once approved by IOM. |
| Final research report incorporating IOM’s feedback | 31 st October, 2021 | 60% once it is approved and considered final by IOM. |





6. Monitoring of progress

The consultant will maintain close communication with the Research Consultant in IOM China, and other project team members when needed. In addition to the submission of deliverables specified in these Terms of Reference, IOM may request additional check-ins with the consultant. These monitoring activities may include phone calls for progress updates, additional requests of draft submissions, or others as agreed between both parties.

IOM will ask the consultant to update on the progress of the research by the end of June, 2021. This update on progress should consist on a detailed description of the progress made and the remaining work ahead for each of the headings of the table of contents (section 4). IOM will provide a template form for the consultant to fill in accordingly.

7. Performance indicators for the evaluation of the deliverables

- Satisfactory completion of tasks indicated in the Terms of Reference;
- Quality of the deliverables and adherence to the Terms of Reference;
- Level of adherence to the objectives and purpose of the consultancy;
- Quality of the elaborated paper and analysis;
- Timely delivery as indicated in section 5;
- Performance of any other tasks indicated above;
- Periodic and regular updates on the progress of the deliverables provided to IOM.

8. How to apply

Prospective consultants shall submit their CV and cover letter to mrli@iom.int in IOM China by 13thMay, 2021, before midnight GMT+8. Only shortlisted candidates will be approached for interview.

