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Training on International  
Migration Law and International Standards  
7-8 September 2017

Summary Report



The International Organization for Migration (IOM) organized a two-day *Training on International Migration Law (IML) and International Standards* for Chinese officials from the Ministry of Public Security and selected Provincial Security Bureaus. The activity, which falls under the framework of the *EU-China Dialogue on Migration and Mobility Support Project*, was held in Hangzhou on 7-8 September 2017 and followed a previous, analogous workshop held on 7-8 March in Beijing.

34 participants from the Bureau of Exit and Entry of the Ministry of Public Security (MPS) representing 27 different local Entry and Exit Administration Bureaus attended the training. Two European experts on IML, Ms. Anne Althaus, Migration Law Officer at the IOM International Law Unit, and Dr. Jean-Pierre Gauci, research fellow at the British Institute of International and Comparative law, conducted the training sessions, which were further enriched with contributions by Prof. Bjorn Ahl from the Institute of East Asian Studies of the University of Cologne, and by Dr. Erik Slavenas, Identity Management and Biometrics Officer at IOM Headquarters.

Through theoretical discussions and practical exercises, this training aimed at enhancing Chinese officials' understanding of international principles surrounding migration and protection of migrants' rights. The activity was ultimately coherent with China's efforts of complying with international law and participating in global governance.

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Discussions focused on the following points:

#### International migration –terminology, definitions, sources and conventions related to IML.

Presenters set the scene for following discussions by providing clarifications on migration terminology (regular, irregular and undocumented migrant, victim of trafficking, migrant worker, refugee and asylum seeker, internally displaced person, stateless person and environmental migrant). As IML is a complex and multi-faceted discipline, composed of several branches of international law applied to migration issues, presenters gave insights on the principal IML instruments (bilateral, multilateral treaties and agreements), including Human Rights Law, Refugee Law, Labor Law, Nationality Law, Trade Law, Maritime and Air Law, Criminal Law as well as Consular and Diplomatic Law.

#### Human rights of migrants

Presenters explained the universality of human rights that apply to every human being in every country despite any status, and as such, also to migrants. During this session, examples of discrimination were provided to underline their impact on the scope of migrants' rights. Finally, presenters exposed key measures to prevent discrimination in practice. A key element of this session was that migration laws should apply to regular and irregular migrants and to migrants and national citizens, without discrimination. Differences between nationals and non-nationals might exist, as long as the distinction is legal, legitimate and proportionate to the aim, while discrimination has to be treated as a Human Rights' violation.

#### Human trafficking and Migrant smuggling.

The session reflected on distinctions and interplay between smuggling and trafficking, and how these criminal acts violate regular migration channels. An overview on the two international bodies covering the issues, namely the *Protocol against the smuggling of Migrants by Land, Sea and Air*, Supplementing the *United Nations Convention against Transnational Organized Crime* (Palermo Convention) was thus provided to enhance the understanding of the two concepts from a legal perspective.

#### Principles Surrounding Entry

In this interactive session, participants had to reflect on the interplay between state sovereignty against international principles surrounding exit from the country of destination/transit and return, including the principle of *non-refoulement*, collective expulsions, and family reunification. The session was organized as a group discussion during which participants were asked to solve simulated situations by assessing whether migrants had the right to be admitted/expulsed from a given country, taking into consideration international regulations, practice and the authority of the states. Above all, States responsibilities were emphasized as fundamental mean ensuring that the rights of migrants are fully respected in this delicate phase of the migration process.



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### International Framework on traveler identification management

Participants were provided with information about traveler identification management. Dr. Erik Slavenas, from the IOM International Border Management Unit, gave an outline of relevant international conventions and instruments regulating traveler identification and illustrated about IOM and the International Civil Aviation Organization (ICAO)'s cooperation on traveler identification management. Among legal provisions on traveler identification management, Dr. Slavenas presented about the Convention on International Civil Aviation (also known as Chicago Convention) with its Annex 9 relative to border control, and the ICAO document 9303. Furthermore, the expert gave an overview on the ICAO Travel Identification Program strategy (TRIP), jointly implemented with IOM after the two UN agencies signed a Memorandum of Understanding in November 2016. The TRIP strategy aims at improving the capacity of Member States to identify individuals by providing supporting mechanisms to establish and confirm the identity of travelers. The strategy is articulated in 5 dimensions of identification management, namely: (1) the evidence of identity (involving the tracing, linkage and verification of identity against breeder documents); (2) the design and manufacture of standardized Machine Readable Travel Documents (MRTDs), including ePassports, that comply with ICAO specifications; (3) document issuance and control, that is the processes and protocols for document issuance by appropriate authorities; (4) inspection systems and tools for reading and verification of MRTDs; and (5) interoperable applications protocols that provide linkage of MRTDs and their holders to available and relevant data in the course of inspection operations.

### International Migration law in practice: the Maltese perspective

By resorting to the Maltese experience, this session aimed at presenting a concrete case where European laws and other international laws regarding migration can affect national governments' implementation on migration policies, by urging their compliance with global and regional standards.

### Interplay between National and International Migration Law (focus on China);

Prof. Bjorn Ahl presented about the application of IML within the Chinese context. After having provided an overview of conventions and other human rights treaties dealing with the protection of migrants, the presenter clarified the difference between monistic (direct adaptability) and dualistic (non-direct adaptability) theory guiding the relationship between international law and national law. After having exposed about relevant theoretical elements, Prof. Ahl moved to the description of the application of international principles into the Chinese system. China has opted for a mixed system, with judges only partially implementing international law's provisions. With regard to the principle of hierarchy of the sources, China's constitution doesn't make clear whether international law is above national law yet.



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### ***Participants' evaluation:***

At the end of the workshop, IOM launched a pilot online system for the evaluation of the activity. Participants were asked to subscribe to the IOM MMSP WeChat account and fill the online questionnaire included. The new system had a good reception, with 28 participants answering through their smartphones. In the final report (attached to this document), participants expressed overall satisfaction (4.7 out of 5) for the organization of the activity, with contents well organized (4.5), and useful material (4.5). When asked whether the workshop helped them to improve their knowledge on IML related topics, 64% expressed full satisfaction, and 32% high satisfaction.

### ***Annexes:***

Annex 1: Agenda & List of participants

Annex 2: Evaluation Questionnaire Report