



Zimbabwe



The European Union

Concept Note

Promoting Migration Governance in Zimbabwe

Migration Law Review

1. Introduction and Background

The International Organization for Migration (IOM) with funding support from the European Union under the 11th European Development Fund is implementing the Promoting Migration Governance in Zimbabwe (PMGZ) Project. The PMGZ project is supporting the establishment of a migration governance framework in Zimbabwe, to enhance the role of State and non-State actors in managing migration in a migrant-centred, human rights centred, gender-sensitive, and development-oriented manner. The action- Promoting Migration Governance in Zimbabwe project is part of the overall National Indicative Programme (NIP) of the 11th EDF between the European Commission and the Government of Zimbabwe. Specifically this action falls within support to the Governance and Institution building Sector under the NIP. The action focuses on improving migration management through facilitating review of the overall migration governance structure and processes while also ensuring that all migration-related legislation in Zimbabwe is aligned to the Constitution of Zimbabwe (Amendment (No 20) ACT 2013).

The project seeks to improve the migrant protection environment and enhance the participation of the Zimbabwean women and men in the diaspora in national decision making and development programmes. The migration issues of interest include labour migration, trafficking in persons (TiP), mixed migration flows (including refugee protection, unaccompanied minors and undocumented/stranded migrants), integrated border management, internal migration, as well as, migration and human development; and migration and gender. The overall objective of the project is to contribute to the establishment of a migration governance framework (policy, institutional and legislative) in Zimbabwe that supports State actors to manage migration in dialogue with non-State actors and in a migrant-centred, gender-sensitive, rights-based and development-oriented manner. The specific objectives are i) to achieve strengthened institutional capacity and adoption of a coherent and gender-sensitive policy and legislative framework for a comprehensive approach to migration; and ii) to enhance participation and contribution of Zimbabwean women and men in the diaspora in national development initiatives in close collaboration with the Government. Under Specific Objective 1, Result 3 of the Action, the project seeks to support the Government of Zimbabwe through the Ministry of Justice, Legal and Parliamentary, the Ministry of Home Affairs (which is the lead Ministry that has the mandate of administering Migration legislation) and other relevant line ministries to develop/strengthen the legislative framework that responds to current migration trends and international obligations for enhanced protection of migrants' rights.

Enhanced protection of migrants' rights will be achieved through sustained advocacy efforts by civil society partners towards improving legislation as well as supporting community and stakeholder awareness on migrant rights, regional and international protocols and the need for comprehensive migration legislation in Zimbabwe.

2. Terms of Reference

To achieve this objective, IOM will invite suitably qualified and experienced consultants to conduct a Gap Analysis on Zimbabwe legislation. The research will be, conducted in consultation with a broad range of migration stakeholders (State and non-state- actors) in Zimbabwe. This gap analysis seeks to identify legislation concerning migration in Zimbabwe. It aims to ascertain the extent to which the current migration

legislation is aligned to the constitution and to identify the gaps and make recommendations for the legislation to be aligned to the Supreme Law in Zimbabwe. It also seeks to identify the extent to which the Zimbabwean migration legislation meets the regional and international standards in the field of migration. The principle standards used to identify gaps and inconsistencies in the Zimbabwe migration legislation are i) the Constitution of Zimbabwe ii) international and regional human rights standards and norms including treaties regulating issues relevant to migration. The consultancy will also take stock of the legal developments, practice and experiences of other similarly situated jurisdictions especially in Africa and make appropriate recommendations for the strengthening / review of the migration legislation in Zimbabwe.

In summary, the migration legislation review will seek to achieve the following outcomes;

1. Outline the current state of the migration legal framework in Zimbabwe through:
 - a. identification and compilation of all the current legislation regulating migration management in Zimbabwe;
 - b. assessment of the migration legislation and conformity to the constitution and make recommendations for alignment;
 - c. identification and compilation of international instruments addressing migration issues that the Government of Zimbabwe has ratified, including the basic principles of international migration law;
 - d. identify other regional and international instruments that Zimbabwe has not yet ratified and make recommendations for both ratification and possible future domestication.
 - e. identification and compilation of other legally binding instruments, policies and any other documents that address migration issues (bi-lateral agreements, treaties and by-laws);
 - f. Analysis of the cross pollination of migration legislation amongst the different ministries to remove conflicting statutes and ensure coherence in migration legislation across all the sectors in Zimbabwe; and the
 - g. Assessment of the migration specific Sustainable Development Goals and analysis of gaps in the current migration-related legislations given the cross cutting nature of the SDGs.
2. To conduct a case study of selected countries that have implemented migration management schemes with a particular focus on their legal frameworks and using the best practices from the case studies, make practical recommendations applicable within the Zimbabwean context. These recommendations must connect with the findings on the Zimbabwean situation on the state of its institutional and legal frameworks.
3. To present the findings of the study at a sensitization workshop for Legislators, policy makers and other stakeholders.

The consultant, in his analysis, is expected to make reference to the various migration management thematic areas listed below to ensure that all relevant legislation is addressed:

- i. Migration and development management
- ii. Internally displaced populations
- iii. Migration and health
- iv. Migration and gender
- v. Human trafficking and smuggling
- vi. Irregular migration
- vii. Informal cross border trade
- viii. Labour migration
- ix. Remittances and investments
- x. Brain drain and emigration
- xi. Citizenship

3. Proposed Methodology:

In addition to the consultant's proposed methodology, He/she is expected to conduct interviews with key informants in Government and the Inter-Ministerial Committee on Migration at the central levels and IOM officials in Harare responsible for the management of the project.

4. Estimated Duration of Assignment

The assignment (preparatory work, drafting and consultation, presentation of results to both IOM and the Government of Zimbabwe) is expected to be completed in a period of no more than 60 days.

Chronogram

The consultancy is divided into three phases namely the preparation, drafting and consultations and the analysis and the presentation of results.

| Activity | Number of Days | Deliverable |
|---|-----------------------|---|
| Preparation phase, including inception report(methodology of assessment and report structure) | 5 | Inception report |
| Meeting with the IMCM | 1 | Meeting report |
| Desk Review + Literature review | 5 | Report |
| Interviews with Key Informants | 5 | |
| Draft report presented to IOM | 5 | Draft Report and PowerPoint presentation to IOM and GoZ Officials |
| Review and revise the report | 3 | |
| 2nd draft report submitted after the review meeting and consultations with the GoZ | 3 | |
| Presentation of final report to IOM | 3 | Final External Evaluation document submitted to IOM |
| | | |

Upon selection of the consultant, a briefing will be undertaken at IOM Zimbabwe offices. This briefing among other things, will clarify the interpretation of the assignment as well as the practicalities and logistical arrangements. This meeting will mark the official commencement of the assignment.

5. Tangible and Measurable Outputs of the Work Assignment

Draft Migration Legislation Review: two bound copies and an electronic copy of the final report within 7 days after completion of the assignment. The draft policy should contain the following among other issues:

An executive summary: 1- pages that summarizes the salient points of the Migration Legislation Introduction and background information including; the Zimbabwean context, and relevant regional and global outlook.

Key recommendations and strategies, rational for the recommendations and relevant guiding principles. A draft plan of action, which includes activities and expected outcomes; responsible actors, timeframes, and resources required.

One power point presentation providing an overview of the recommendations for legislative review to IOM to be presented during an oral debriefing meeting with IOM management and Project Support Staff, to highlight and explain the observations, challenges, findings and recommendations and the proposed way ahead.

6. Profile of the Consultant

The Consultant should possess at least 10 – 15 years of professional experience in developing legislation drafts, especially in domains relevant to migration.

Advanced university degree in specialized fields of law, social and/or political sciences, with related experiences in migration and development.

The consultant should be conversant with gender analysis or gender mainstreaming in the conduct of the research.

Ability to work independently with minimal supervision, and pay attention to detail.

Capacity to synthesize and collate relevant information in a comprehensible and coherent manner.

Knowledge of relevant policies on migration management and the Zimbabwean legislation and constitution.

Experience working with governments and civil society.

Excellent oral communication and report writing skills in English is required.

Strong interpersonal and networking skills;

Ability to interact with senior officials in government and multilateral agencies.

The Consultant is expected to adhere to the IOM Guidelines on data protection, confidentiality and ethics.

7. Profile of the Proposal to be submitted

The Terms of Reference (ToRs) specify the details of this assignment and the proposal should be elaborate on the basis of the given information. The proposal shall be produced in English including:

Up dated CV of consultant clearly meeting the specific experience related to the above mentioned qualifications.

A technical proposal comprehensive of work plan, work methodology and detailed budget.

Two samples of previous policy development work, preferably relevant to the subjects of this consultancy.

Contact details for three references from clients with previous contracting experience with the team leader.

8. Expected outcomes:

The consultant will be expected to submit a final report by 30 October 2017.

The main body of the legislative review document should be no longer than 40 pages and should consist of: Migration legislative review report and Draft action plan.

Appendices - to include terms of reference, list of all relevant policies, list of those interviewed, and bibliography. All material collected in the undertaking of the review process should be returned to IOM before the termination of the contract.

The report and all background documentation will remain the property of the Government of Zimbabwe.

9. Application Procedure:

All interested consultants are to submit physical or electronic copies for their technical and financial proposals to IOM by 22 September 2017.

All bids are to be addressed to the attention of:

The Procurement Officer

IOM Zimbabwe

Number 4 Duthie Road

Alexandra Park

Harare

Or electronically to fsibanda@iom.int