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EUROMED JUSTICE III PROJECT

Component 3: Criminal and Penitentiary Law
Working Group 3.2

Working Group on Criminal Law in order to prepare a tool equivalent to the so-called “fiches belges”

Rome (IT), 29-31 January 2013

INFORMATIVE NOTE

1. - General Information

2. - Main discussion items addressed during the meeting

3. - Summary of the main provisional results obtained during the meeting

1. General Information

The second Meeting of the Working Group 3 on the component “Criminal and Penitentiary Law” of the EuroMed Justice III Project of the European Commission, funded by the European Union, was held on 29-31 January 2013 in Rome.

This event was attended by representatives of 7 ENPI South partner countries, with 20 representatives in total attending the meeting.

The participants were members of the delegations of the following Mediterranean countries: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco and Tunisia.

The meeting was attended by representatives from:

Algeria (3)
Egypt (3)
Israel (3)
Jordan (3)
Lebanon (3)
Morocco (3)
Tunisia (2)

The Syrian Arab Republic (formally part of the project even if there is a partial and temporary suspension of the EuroMed Justice III project in terms of Syrian participation), was not represented at this event.

In addition, it was not possible to have Libya, as new ENPI South beneficiary country of the Project, send a representative to the meeting despite the efforts made by the Directorate-General Development and Cooperation EuropeAid and the Project Team. The same remark applies to the Palestinian Authority. All the participants were experts in the field covered by the meeting; many of them have a long-standing experience and they showed a deep interest in the topics discussed. The discussions were constructive and very fruitful.

Two representatives of the host country, Italy, took part in the meeting: Ms Maria Luisa Fichera, as National Focal Point in Italy for the EuroMed Justice III Project, and Fabio Licata, Italian Senior Judge, as speaker.

In total: 25 participants, including the Project Team, the Italian NFP and the Italian speaker (5).

Regarding the profile of the participants, most of them were high officials of the Ministry of Justice, Cassation Court Judge, senior judges and public prosecutors, Heads of Courts of First Instance and other courts, Directors of judicial central services, Directors of the legal services of the Ministry of Justice in charge of criminal cooperation, Legal assistant and lawyers, etc. Some of the participants, besides being magistrates, are also engaged within certain departments of their respective Ministries of Justice.

2. - Main discussion items addressed during the meeting

The meeting was opened by Ms Maria Luisa Fichera, National Focal Point in Italy for the EuroMed Justice III Project, and by Mr Andrés Salcedo Velasco, Team Leader of the EuroMed Justice III Project, who welcomed the participants.

The agenda of the meeting included presentations made by the key experts of the Project Team. These presentations were made by Mr Andrés Salcedo, Team Leader (General presentation and conclusions obtained during the first meeting on this component), and by Mr José María Fernández Villalobos, Course Manager (Organisation and methodology of the Working Groups meetings).

The background, the context and the structure of the working group meetings that are being developed under this component, including their overall approach and the main topics suggested for discussion, were introduced by the Project Team that is in charge of this activity.

Furthermore, one thematic presentation was made during the meeting, on “**Assets - Sequestration, confiscation and restitution: Approach to the Italian legal framework**”. This presentation was made by *Fabio LICATA*, Italian Senior Judge. During this presentation, the speaker explained the Italian system and its requirements, limits, peculiarities etc. related to the topics addressed. This presentation was followed by a lively debate.

During the sessions, the representatives of the Mediterranean countries took then the floor to make a presentation on the current situation in the topics covered by the program in their respective countries. These presentations were followed by an open debate. We made progress in identifying the relevant information required for drawing up the handbook (*fiches belges*-like tool).

In addition to the meeting agenda, relevant documentation and a general information leaflet were handed out to the participants, and were also sent to them ahead of the meeting. The Project Team presented the project website and the different tools offered in order to support the intermediate work of the participants/experts/project team in between the various meetings of this working group.

During this second meeting the work revolved around an analysis of the contents, characteristics and legal procedural criminal framework of each country and a summary of the situation in the EU reflected in the EU fiches belges regarding the following topics: 1) Examination, body search and expert evaluation: Superficial body search; Invasive body search; Psychiatric medical examination; Control of identity, measures for judicial identification; Technical or scientific examinations or expert evaluations. 2) Documents – Obtaining: Spontaneous exchange of information; Order to produce documents; Other possibilities of obtaining information concerning taxes or bank accounts; Access to public documents in judicial files; Communication of individual police records; Sending and service of procedural documents; Transfer of proceedings.

The discussion also revealed real and current differences but also convergence between the various systems, while trying to reach some approximation between the different systems and realities of each participating country.

3. - Summary of the main provisional results obtained during the meeting

Considering the objectives of this meeting and taking into account the recommendations made during the working sessions and the debate, the participants approved a document called Final Conclusions in which they stressed that this second meeting gave them the opportunity:

- a) To continue the debate and the overall approach to the handbook (fiches belges-like type).
- b) To follow the methodology agreed during the first meeting of this Working Group. In this respect and in order to achieve the main objective of this Working Group, this methodology will allow us to obtain an instrument equivalent to the so-called “Fiches belges” from the perspective and current legal framework of the Beneficiary Countries.
During this meeting we have had the opportunity to work on the headings: Examination, body search and expert evaluation; Documents-Obtaining. More particularly, the following measures were addressed: Superficial body search. Invasive body search. Psychiatric medical examination. Control of identity, measures for judicial identification; and Technical or scientific examinations or expert evaluations. Spontaneous exchange of information. Order to produce documents. Other possibilities of obtaining information concerning taxes or bank accounts. Access to public documents in judicial files. Communication of individual police records. Sending and service of procedural documents. Transfer of proceedings.
- c) To be informed that the meetings and the work in between the meetings are interconnected by means of a virtual platform (separate forum, document folder, etc.) specially developed for this working group, and accessible via the project website, thus allowing for a continued exchange of information and possible contributions.
- d) To promote mutual understanding and knowledge of the different judicial systems concerning criminal law in the different countries which take part in the meeting.
- e) To further strengthen cooperation among the Euro-Mediterranean Partners in the field of justice and criminal law matters.
- f) To have a fruitful debate on the state of play in the field of criminal law in the Mediterranean countries, while presenting their respective experience and legal framework related to the topics discussed during the meeting. These presentations gave the participants the opportunity to compare the different legal frameworks and criminal procedural legal regulations existing in the region.
- g) To obtain some additional information on the contents of the handbook that should be produced by this Working Group at the end of its 3 meetings. In this respect the participants agreed that they will send to the Project Team the revised content of the fiches belges worked out during this meeting once they will be back in their respective countries.
- h) To start the discussion on the contents of the training sessions and study visits that will be developed during the second phase of the project.

Participants also expressed the intention:

- ❑ To further reinforce the dialogue and to continue to work together in between the three meetings devoted to this component in order to produce the fiches belges like tool expected at the end of their work. To this end, they could use the virtual platform on the EuroMed Justice III project website.
- ❑ To inform the concerned authorities and institutions in their respective countries of the results of this WG meeting so that they could also take advantage of the experience gained during this meeting.

Finally and taking into account the main objective of this working group - the handbook (fiches belges-like type) - and considering that the work will be developed during 3 working group meetings, the last one being in March 2013, the participants agreed to continue the discussion on this topic during the next meeting without prejudice of the possibility for them of being in contact with the expert/s, project team and between themselves through the above-mentioned virtual platform on the project website. In addition, the participants were informed that the next meeting will take place on 19-21 March 2013.

Participants were grateful to the Italian Ministry of Justice, to the Directorate-General Development and Co-operation - EuropeAid, European Commission, and to the Project Team for organising this meeting.