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EuroMed Justice III Project

COMPONENT I: ACCESS TO JUSTICE AND LEGAL AID WORKING GROUP 1.1.3 Third Meeting

PREPARATION OF A HANDBOOK

**Handbook which identifies and describes possible approaches and best practices to
improve access to justice and legal aid**

Sofia (BG), 6-8 November 2012

Informative note

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1.- General Information

The 3rd meeting of the Working Group I on the component “Access to Justice and Legal Aid” of the EuroMed Justice III Project of the European Commission, funded by the European Union, was held on 6, 7 and 8 November 2012 in Sofia, Bulgaria.

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

The meeting was opened by Ms Elena Cherneva, Head of Legal Aid Department, Ministry of Justice, Bulgaria, and by Mr Andrés Salcedo Velasco, Team Leader of the EuroMed Justice III Project, who welcomed the participants. Ms Nadya Parpulova-Ashworth, Director of Directorate - Management of International Programmes and Projects, Ministry of Justice, Bulgaria, and National Focal Point for the EuroMed Justice III project in Bulgaria, was also present during the opening speech. The meeting was closed by Ms Nadya Parpulova-Ashworth and Mr Andrés Salcedo Velasco.

A summary of the work carried out during the first and second meeting, the methodology to be followed during this third meeting and the main topics suggested for discussion were

introduced by the Project Team experts and the main short-term expert, Mr Georges Assaf, who in charge of this Working Group.

Furthermore, three presentations were made during the meeting. The first one on “Alternative dispute resolution methods: present and future. How to improve ADR methods in order to facilitate access to justice for citizens” by Ms Carmen Parra, PhD Lecturer Professor, Abat Oliba University CEU, Faculty of Law, Barcelona. The expert explained the definition and content of alternative dispute resolution methods from an international perspective, with special reference to mediation. In this respect she explained, among others, the main fields covered by mediation, how to enforce mediation agreements, the importance of training or the cost of mediation. The second presentation on “Best practices on time management of judicial proceedings, with special reference to the importance of simplifying procedures” was introduced by Mr Francois Paychère, Judge at the Court of the Republic and Canton of Geneva, Council of Europe expert and Chairman of the CoE Working Group on quality of justice. The expert introduced the main work developed in this field by the European Commission for the Efficiency of Justice (CEPEJ). In this respect he highlighted, among others, the evolution of the European Court of Human Rights’ case law related to the due process and timeframe, the timeliness of the different phases of the procedure or the periods of inactivity. In addition, the speaker explained the importance of managing in a proper manner the timeframe of the procedures or how to reduce the length of the procedures, among others. Finally, the third presentation made during this meeting was delivered by Ms Sevdalina Aleksandrova, international expert and Vice-President of the Professional Association of Mediators in Bulgaria, who explained the current situation and framework related to ADR in Bulgaria. The speaker presented, inter alia, the current ADR mechanisms existing in Bulgaria, the ADR achievements, the current statistics or the legal framework in force in this field.

The most relevant sessions of the meeting were devoted to discussing different topics suggested in order to make progress in preparing the handbook.

The representatives of the Mediterranean countries present in the meeting took then the floor to make a presentation on the current situation in this field in their respective countries. These presentations were followed by an open debate.

2.- Main discussion items addressed during the meeting

During the working sessions, various topics were discussed by the participants with the support of the Project Team and the experts present.

Special mention should be made of the discussion on issues such as: coordination between the groups involved in reducing problems of heavy workload and delays in the justice administration. The debate focused on identifying the various groups involved, the roles and leadership of such groups and the necessity of cooperation among them, while taking account of national peculiarities.

Afterwards, the discussion dealt with the most appropriate criteria to set judicial timeframes as a mechanism that will speed up procedures and contribute to reducing the workload, as well as to avoiding undue delays in processing the cases.

Then the debate revolved around the advisability of flexibility and adaptability of timeframes in the civil and in the penal context, and the participants had the opportunity to express their own views on this.

Moreover, the problem of promoting a professional culture advocating respect for compliance with judicial timeframes and the pros and contras of possible sanctions imposed on behaviours conducive to undue delays were also addressed.

Later on, the use or promotion of techniques and resources to support and optimize the work of the justice administration were analysed and, in this respect, there was, for example, also a discussion on the possibility to resort to flying judges, to juridical assistants or even to optimizing the judges' experience once retired, when they could still be useful in support or strengthening tasks.

Afterwards, there was also a debate on establishing workload modules or carrying out an analysis of the impact of procedural legal reforms on the workload; afterwards the debate moved on to other issues, inter alia, the utility and widespread use of common services or the specialisation of courts and legal operators, as well as the use of techniques to accelerate and streamline work, such as delegation of competences, the utility of drawing up best practices catalogues or protocols in the field of procedural management or the use of mechanisms like meetings in order to unify jurisdictional or interpretative criteria. The various debate sessions were complemented with a review of and possible amendments to the conclusions agreed during previous meetings.

3.- Conclusions.

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 third meeting gave them the opportunity:

- a) To continue the debate and the overall approach to the handbook which identifies and describes possible approaches and best practices to improve access to justice and legal aid.
- b) To follow the methodology agreed during the first and second meeting and, in this context, to have the opportunity to listen to the different approaches and experiences of the beneficiary countries attending this meeting regarding the topics addressed during this third meeting.
- c) To analyse and agree on the working documents prepared by the main short-term expert, Mr Georges Assaf, based on the work developed during the first and second meeting of this working group held in Paris and Marseille respectively. The participants had the opportunity to contribute useful comments to this document.
- d) To finalise the discussion and agreements on good practices in the field of length of procedures, delays and timeframe for judicial proceedings started during the second meeting. In this respect, the topics discussed were, among others: main players involved in relation to the length of procedures, setting appropriate and realistic judicial timeframes, flexibility and predictable management of proceedings, the convenience of specific timeframes for kind of procedure and case complexity, the importance of promoting a professional culture supporting the struggle against undue delays, undue delays: disciplinary and professional responsibility, etc.
- e) To start the discussion on the approaches and best practices related to simplification of the procedures, oral procedures and alternative dispute resolution methods.
- f) To further strengthen cooperation among the Euro-Mediterranean Partners in the field of justice.
- g) To reach some additional agreements on the contents of the handbook that should be produced by this Working Group at the end of its 5 meetings.

Participants also expressed the intention:

- To further reinforce the dialogue and to continue to work together in between the five meetings devoted to this component in order to produce the handbook 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 in view of taking advantage of the experience gained during this meeting.

Finally and taking into account the main objective of this working group - the handbook - and considering that the work will be developed during 5 working group meetings, the last one being in April 2013, the participants agreed to continue, if necessary, the discussion on this topic during the next meeting without prejudice of the possibility for them of being in contact with the expert, project team and between themselves through the above-mentioned virtual platform on the project website.

The participants have also been informed that the fourth meeting of this Working Group is planned to take place on 12, 13 and 14 February 2013.

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