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EuroMed Justice III Project

COMPONENT II: RESOLUTION OF CROSS-BORDER FAMILY CONFLICTS

WORKING GROUP 2 Fourth Meeting

PREPARATION OF A HANDBOOK “Handbook on best practices concerning the resolution of cross-border family conflicts: custody and visiting rights”

Resolution of cross-border family conflicts: custody and visiting rights. Mediation and other means of Alternative Dispute Resolution

The Hague (NL), 5-7 March 2013

PRESS NOTE

The 4th meeting of Working Group II on the component “Resolution of Cross-Border Family Conflicts” of the EuroMed Justice III Project of the European Commission, funded by the European Union, was held on 5-7 March 2013 in The Hague.

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

All the participants were experts in their respective functions in the field covered by the meeting; many of them have a long-standing experience and they showed a deep interest in the different presentations and topics discussed. Each presentation was followed by a debate and the discussions were constructive and very fruitful.

The meeting was opened by Louise Ellen Teitz, First Secretary of the Hague Conference on Private International Law, and by Mr Andrés Salcedo Velasco, Team Leader of the EuroMed Justice III Project, who welcomed the participants. The meeting was closed by the Team leader.

A summary of the work carried out since the previous meeting and the main topics suggested for discussion during this meeting were presented by the Project Team and the main short-term expert, who is in charge of this Working Group.

One thematic presentation was made during the meeting on “Mediation and other means of ADR methods: The work developed by the Hague Conference and work in progress.” by Kerstin Bartsch, Legal Officer, International Family Law and International Child Protection Law, Hague Conference on Private International Law (HCCH). During her presentation the speaker introduced as main topics of her presentation the work developed by the Hague Conference and the groups of experts created by the HCCH, as well as the most relevant documents produced by these experts’ groups. In addition, she presented the Malta Process and the working party on Mediation in the context of the “Malta Process”, in which Egypt, Jordan and Morocco are involved among other countries. In addition, it was stressed the relevance for the future of the Informative Central Focal Point related to the use of mediation.

The most relevant sessions of the meeting were devoted to discussing different topics suggested in order to make progress in preparing the handbook. In this respect, special mention should be made of the discussion on issues such as: jurisdiction criteria , competence criteria, urgent and preventive measures in cases of wrongful removal of children , scope of application of mediation, and regulation, principles of mediation, main institutions involved in the procedure, procedure, enforcement, mediation and pre-trial advising...

During the meeting the representatives of the Mediterranean countries took 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.

Considering the objectives of this meeting and taking into account the recommendations made during the working sessions and the debate, the participants are of the opinion that this fourth 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 resolution of cross-border family conflicts.
- b) To follow the methodology agreed during the previous meetings and, in this context, to have the opportunity to listen to the different approaches and opinions from the beneficiary countries' participants regarding the topics on the agenda.
- c) To analyse and discuss on the working document prepared by the main short-term expert, Ms Juliane Hirsch, based on the work developed during the third meeting of this working group held in Madrid. The participants had the opportunity to contribute useful comments to this document. In this respect, it was agreed that the participants could send any additional comments in writing by 24 March at the latest.
- d) To finalise the discussion on some topics pending discussion concerning approaches and best practices in the field of resolution of cross-border family conflicts, with special reference to wrongful removal of children.
- e) To know through the different countries' presentations and to discuss on the current situation regarding resolution of cross-border family conflicts in the ENPI South partner countries, mediation and other means to bring about amicable dispute resolution, rendering agreements legally binding and enforceable, hearing the voice of the child.
- f) To discuss best practices related to the use of mediation and other means of alternative dispute resolution in cross-border family conflicts: special challenges in cases of wrongful removal or retention of children, protective measures, suitability of mediation and similar means of alternative dispute resolution; rendering agreements legally binding and enforceable, compulsory or non-compulsory nature of a prior information phase on mediation, impact of mediation on the procedure, legal aid and mediation, costs of family mediation, profile of the cross-border family mediator, selection and training of international mediators or principles of mediation, among others.
- g) To promote mutual understanding and knowledge of the different judicial systems concerning cross-border family conflicts in the different countries that were represented at the meeting.
- h) To further strengthen cooperation among the Euro-Mediterranean Partners in the field of justice.
- i) To have a fruitful debate on the state of play in the field of cross-border family conflicts in the Mediterranean countries, while presenting their respective experience and legal framework.
- j) To reach further agreement on the contents of the handbook that should be produced by this Working Group at the end of its 5 meetings.

- k) To start a 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 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 relevant authorities and institutions in their respective countries of the results of this WG meeting so that they can also benefit from the experience gained during this meeting.

The Hague, 7 March 2013