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EUROMED JUSTICE

EUROMED JUSTICE 1ST CRIMEX SESSION – MADRID, SPAIN

March 16, 2017

CRIMEX RECOMMENDATIONS

The 1st CrimEx Session, under the component *Cooperation in criminal matters* of the EuroMed Justice Project funded by the European Union, was held on 14-16 March 2017 in Madrid (Spain).

1. Participants

The 3-day session was attended by:

- Representatives of the judicial authorities (Ministry of Justice, Prosecutor's General Office, High Courts) from six South Partner Countries: Algeria, Egypt, Israel, Morocco, Palestinian Authority and Tunisia. Liaison magistrate of Morocco in Spain.
- Representatives of Eurojust, EJM in criminal matters and UN-CTED
- Representatives of the judicial authorities of the host country, Spain
- EuroMed Police Team Leader
- EuroMed Justice PMT and FIIAPP representatives
- Short Term Experts involved in the drafting of the CrimEx docs, i.e. Legal Analysis, Gaps Analysis and Update of the EuroMed Fiches, from The Netherlands, Spain and Egypt

2. Objectives

- 2.1. To introduce and agree on the general lines of CrimEx working methodology, organisation and tasks.
- 2.2. To initiate the debates and identify the national and international frameworks (norms, institutions and tools) of judicial and law enforcement cooperation in criminal matters, focusing on the practical matters pertaining to its various forms: extradition, MLA, the transfer of proceedings, the gathering of evidence, the recognition and the execution of foreign decisions.
- 2.3. To examine SPC's national legislation transposing relevant treaties and conventions on cooperation in criminal matters.

- 2.4. To examine the practice and experiences with regard to investigation and prosecution of complex judicial cases, with a special focus on the field of counter-terrorism, fighting complex cross-border crime, organised crime, cybercrime, irregular migration, trafficking in human beings, money laundering.
- 2.5. To examine SPCs' knowledge and regional cooperation framework through the updating of the EuroMed Fiches.
- 2.6. To discuss and define the scope of the Legal Analysis, Gaps Analysis and EuroMed fiches, the methodology, the expected inputs-outputs and the content of possible questionnaires for SPCs

3. Conclusions and Recommendations

- 3.1. CrimEx members approved the documents regarding the organisation of the CrimEx Sessions, the composition of the Presidium, the working methodology and the CrimEx tasks.

In view to support judicial cooperation in criminal matters and to assist the national central authorities, the judges, the prosecutors and the law enforcement from South Partner Countries (SPCs), CrimEx adopts the following recommendations:

- 3.2. Three analytical documents regarding judicial and law enforcement cooperation in criminal matters should be produced by the CrimEx with the support of the EuroMed Justice short term experts, based on the information and data received from the SPCs and the comments from the Eurojust, EJM in criminal matters, UN-CTED, Council of Europe, and EU Member States.

The three analytical documents: [EuroMed Fiches](#), comparative [Legal Analysis](#) and the [Gaps Analysis](#) will serve the elaboration of the [EuroMed Handbook/Manual](#) identifying the measures to improve the cross-border cooperation.

The three analytical documents and the handbook compose the *CrimEx Docs*.

- 3.3. [EuroMed Justice Fiches](#) - a comparative tool of the SPCs' systems of cooperation in criminal matters

1. Scope

- a. To update and supplement the 2014 *EuroMed Fiches* created following the EJM model of the *Fiches Belges*.
- b. To support the mutual knowledge of the SPCs' judicial cooperation systems, and to create a comparative tool of the SPCs' systems of cooperation in criminal matters
- c. To explore the possible connection between *EuroMed Fiches* and *EJM Fiches Belges*

2. Methodology

- a. Use of the methodological model of the EJM in criminal matters
- b. Use of the model of the EJM Excel questionnaires
- c. Avoid duplication and overlapping with the Legal and Gaps Analyses

3. Inputs
 - a. EuroMed Fiches questionnaires – (EJN Excel sheets model)
 - b. SPCs' answers to the questionnaire (Excel sheets) received by the experts
 - c. SPCs' Synthetic National Reports
 - d. Desk/open sources researches of the experts
 - e. Available statistical data and reports
 - f. Experts' draft of the EuroMed Fiches
 - g. Comments from the stakeholders – Eurojust, EJN, UN-CTED, CoE and EU MS
 - h. CrimEx debates, recommendations and conclusions
4. Outputs
 - a. Experts' Report on the status of the updating process of the EuroMed Fiches – to be debated at the 2nd CrimEx session
 - b. Updated EuroMed Fiches
5. Content of the questionnaire – the model of the EJN Excel questionnaires.

3.4. Legal and Gaps Analyses – comparative tools on the SPCs legislation, procedures and practice

1. Scope
 - a. Legal Analysis is a tool comparing the differences and similarities between national legislations and proceedings of the SPCs, mapping the status of ratification and implementation of relevant bilateral or multilateral treaties and conventions.
 - b. Gap Analysis shall assess the capacity (institutional, operational, technical) existing in the SPCs with regard to the multidisciplinary investigation and prosecution of complex transnational judicial cases
2. Methodology
 - a. Legal and Gaps Analyses should be developed in conjunction
 - b. Legal Analysis constitutes the prerequisite for the Gaps Analysis, the EuroMed Handbook and the update of the EuroMed Fiches
 - c. Use of academic and empirical methods of research
 - d. Ensure synergies and avoid duplication and overlapping with EuroMed Fiches
3. Inputs
 - a. Questionnaires drafted by the experts
 - b. SPCs' comments to the draft questionnaires
 - c. SPCs' answers to the revised questionnaires
 - d. SPCs' Synthetic National Reports
 - e. Desk/open sources researches of the experts
 - f. Available statistical data and reports
 - g. Comments from the main stakeholders – Eurojust, EJN, UN-CTED, Council of Europe and EU MS
 - h. Experts' drafting
 - i. CrimEx debates, recommendations and conclusions
4. Outputs
 - a. Experts' Reports on the status of the Legal and Gaps Analyses to be presented at the 2nd CrimEx session
 - b. Draft Legal Analysis
 - c. Draft Gaps Analysis

5. Content of the questionnaires should:
 - a. Address practical difficulties experienced by the SPCs and EU MS
 - b. Identify the good practices in cooperation
 - c. Collect relevant information on practical cases and experiences
 - d. Address the main areas and topical issues such as:
 - i. The length of procedures
 - ii. Principle of reciprocity
 - iii. Gathering and admissibility of cross-border evidences
 - iv. Principle of prosecute or extradite
 - e. Grounds of refusal: prejudice to national essential interests or to sovereignty, political offences, public order, likelihood of death penalty, absence of formal MLA treaty or agreement,

6. Deliverables

- 4.1. Experts' Report on the status of the updating process of the EuroMed Fiches – to be debated at the 2nd CrimEx session
- 4.2. Updated EuroMed Fiches
- 4.3. Experts' Reports on the status of the Legal and Gaps Analyses – to be presented at the 2nd CrimEx session
- 4.4. Draft Legal Analysis
- 4.5. Draft Gaps Analysis

5. Timeline/Schedule

1. One week, until 24 March 2017: preparation of draft questionnaires by experts. Sending them to participants in CrimEx Session for comments.
2. One week, until 31 March 2017: reception of comments on draft questionnaires from CrimEx participants, if any.
3. Three weeks, beginning of April 2017: sending final version questionnaires. Reception of replies by 21st April 2017.
4. Two weeks, until the second CrimEx Session: preparation of draft legal analysis, gap analysis and update of EuroMed Fiches.
5. Until 24th March: sending the excel template and EuroMed fiches to be updated.
6. Until 17th April: reception of comments from CrimEx Members.

Madrid, Spain, 16 March 2017