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**EUROMED
JUSTICE**

PMT INTRODUCTORY PAPER

ON EUROMED JUSTICE ACTIVITY 10. A

THE APPLICATION BY RELIGIOUS AND CIVIL JUDGES OF INTERNATIONAL NORMS CONCERNING THE BEST INTERESTS OF THE CHILD

OBJECTIVE: DRAFTING OF A COMPARATIVE STUDY

This activity will involve the creation of a *Working Group (WG CHILD)* which shall work at the drafting of a *Comparative Study* on the application by religious and secular judges of the international norms concerning the best interests of the child.

The WG CHILD and the Study shall take into consideration the Handbooks produced under the EuroMed Justice Third Phase, which have been distributed to the participants.

Main objectives of the activity are:

- a) To analyse the case-law of the European Courts: European Court of Human Rights in Strasbourg, the Court of Justice of the EU in Luxembourg, and also the decisions of the South Partner Countries' Courts.
- b) The Comparative Study is foreseen and constitutes the basis for a training session in the future.
- c) An exchange of experiences with the HCCH is necessary, namely to support the application of international norms in cases involving protection of the children.

METHOD:

The Working Group CHILD was created according to selection criteria set by the PMT and **should meet twice in July and December 2017**. The Working Group will discuss on the different issues concerning the application of international norms concerning the best interests of the child. The exchange of experiences and a practical *South-South and North-South* approach will be envisaged. The WG will be closely involved in the elaboration of the comparative study, especially as to:

- a) Define the scope and agree on the methodology, the expected inputs-outputs and the possible questionnaire for the SPCs.
- b) Give feedback on the content.
- c) Review the progress and clarify questions from experts or SPCs.
- d) Review and agree on the final draft of the preliminary study.
- e) Identify Technical Assistance Facility needs.

In particular the following set of 12 main objectives of the first meeting of the Working Group are envisaged :

1. To define the scope of the comparative study.
2. To agree on the methodology, the expected inputs-outputs and the possible questionnaire for the SPCs.
3. To give the feedback on the content of the experts presentations.
4. To clarify the questions from experts or other members of the WG.
5. To identify the model of jurisdiction applicable in each country over a family conflict and to protect the best interest of the child.
6. To clarify how the family courts are structured and function, both civil, and religious.
7. To discuss the relevance and the meaning of the foreign-external element- within a family dispute.
8. To examine the relevance of the fact that the parties are of different religions.
9. To identify how are conflicts of jurisdictions addressed in each country.
10. To identify how and on the basis of what law is the best interest of the child protected.
11. To be introduced in the case-law of the European Courts: European Court of Human Rights in Strasbourg and the Court of Justice of the EU in Luxembourg, and the decisions of the South Partner Countries' Courts both secular and religious.
12. An exchange of experiences with the HCCH regarding the application of international norms in cases involving protection of the children.

The Comparative Study is commissioned to four Senior Experts:

1. Ms. Juliane Hirsch, Consultant on Private International Law and International Family Law, Germany julianehirsch.jh@gmail.com
2. Ms. Roberta Ribeiro Oertel, Lecturer, EIPA Luxembourg, r.oertel@eipa.eu
3. Ms. Dolly Hamad Najjar, Expert, Lebanon- Tunisia, dolly-najjar@hotmail.com
4. Mr Ahmed Bakry El Saed, Judge, Egypt, ahmedbakry0205@yahoo.com

The study should fully consider the previous EMJ III Handbooks and the inputs and approach given by the Working Group, which will approve the final draft.

The STEs will attend the WG sessions. Besides, two working sessions – if needed one face to face and one videoconference - will be organised by the PMT with the STEs in order to follow the drafting of the study.

The study may be drafted in English or French; the final document should be available in Arabic, English and French – in digital version.

EuroMed Justice PMT

21 June 2017