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WG CHILD

CONCLUSION AND RECOMMENDATIONS

WORKING GROUP ON THE APPLICATION BY
NATIONAL RELIGIOUS AND CIVIL JUDGES OF
INTERNATIONAL NORMS CONCERNING THE BEST
INTERESTS OF THE CHILD

LUXEMBOURG (LU), 4th – 6th July 2017

Lead Firm / Chef de file





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July 6, 2017

WG CHILD CONCLUSION AND RECOMMENDATIONS

The 1st Working Group CHILD meeting, under the component *Cooperation in civil matters* (Activity 10A) of the EuroMed Justice Project funded by the European Union, was held on 4-6 July 2017 in Luxembourg.

1. Participants

The 3-day session was attended by:

- Representatives of the civil and religious jurisdictions from six South Partner Countries: Algeria, Israel, Morocco, Lebanon, Palestine and Tunisia.
- Representative of the HCCH.
- EuroMed Justice PMT.
- Short Term Experts involved in the drafting of the Comparative Study on the application by national religious and civil judges of the international norms concerning the best interests of the child.

2. Objectives

In particular the following set of 12 main objectives of the first meeting of the Working Group were addressed:

- 2.1. To define the scope of the comparative study.
- 2.2. To agree on the methodology, the expected inputs-outputs and the questionnaire for the SPCs.
- 2.3. To give the feedback on the content of the experts' presentations.
- 2.4. To clarify questions from experts or other members of the WG.
- 2.5. To identify the model of jurisdiction applicable in each country over a family conflict and protection of the best interest of the child.
- 2.6. To clarify how family courts are structured and function, both civil and religious.
- 2.7. To discuss the relevance and the meaning of the foreign-external element- within a family dispute.

- 2.8. To examine the relevance of the fact that the parties are of different religions.
- 2.9. To identify how conflicts of jurisdictions are addressed in each country.
- 2.10. To identify how and on what basis and on what law is the best interest of the child protected.
- 2.11. 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.
- 2.12. An exchange of experiences with the HCCH regarding the application of international norms in cases involving child protection.

3. Conclusions and Recommendations

3.1. WG CHILD discussed in details all the issues related to the 12 objectives concerning the application of the national and international norms concerning the best interests of the child. The exchange of experiences and a practical regional (*South-South*) and cross-regional (*North-South*) approach were central to the debates. The WG was closely involved in the elaboration of the outline of the comparative study and the questionnaire, especially to:

- Define the scope and agree on the methodology, the expected inputs-outputs and the questionnaire for the SPCs.
- Give feedback on the content presented by the HCCH and STEs.
- Review and agree on the final draft of the preliminary study and questionnaire.
- Identify Technical Assistance Facility needs.

3.2. The **Working Group CHILD** agreed upon and approved the structure and the content of the draft outline of the **Comparative Study on the application by national religious and civil judges of the international norms concerning the best interests of the child** and the thematic **Questionnaire** to be answered by the SPCs, as they were amended during the working group debates. Both documents are annexed to the present conclusions and recommendations.

In view to support the drafting of the Comparative Study the WG CHILD adopts the following **recommendations**:

3.3. A **Comparative Study** on the application by national religious and civil judges of the international norms concerning the best interests of the child should be produced by the WG CHILD with the support of the EuroMed Justice short term experts, based on the information, data and answers to the thematic questionnaire received from the SPCs, and the comments from the HCCH.

3.4. The WG CHILD and the Comparative Study shall take into consideration the Handbooks produced under the EuroMed Justice Third Phase (<https://www.euromed-justice.eu>):

- *“Handbook on good practices concerning the resolution of cross-border family conflicts with a special focus on cross-border disputes concerning parental responsibility”* – author Julianne Hirsch; and

- the *Research Report “Overview of the current situation in the ENPI South region and comparative review of national experiences in the field of resolution of cross-border family conflicts”* – author Gianluca P.Parolini.

- 3.5. The Comparative Study will serve as the main document to be disseminated during the Seminar to be organised by EuroMed Justice on the application by national religious and civil judges of international norms concerning the best interests of the child (activity 10B).
- 3.6. WG participants will reflect and express their position during the second WG meeting (2017, December 12th-14th) on the practical proposals introduced by the HCCH representative regarding:
 - the possibility to join the International Hague Network of Judges with responsibility for international child protection;
 - considering designating a Central Contact Point for Mediation and becoming members of the Working Party on Mediation (WPM); and
 - considering joining the Hague Children’s Conventions, for those who are not Party yet.

4. Deliverables

- 4.1. Experts’ Draft of the **Comparative Study** on the application by national religious and civil judges of the international norms concerning the best interests of the child to be presented at the 2nd WG CHILD session, (2017, December 12th-14th).

5. Timeline/Schedule

- 5.1. Next week, on 10 July 2017: sending the questionnaire to the WG CHILD participants.
- 5.2. By 28 July 2017: reception by the PMT of the answers/replies to the questionnaire from WG CHILD participants.
- 5.3. By October 30th, 2017: preparation and sending the draft Comparative Study to the PMT.
- 5.4. November 2017: translation of Study.
- 5.5. Sending the draft Study to the members of WG CHILD.
- 5.6. 12th-14th December 2017: Second Working Group meeting.
- 5.7. Preparation of final version of the Study.

Luxembourg, 6 July 2017