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HERZIENE NOTA

van: het voorzitterschap
aan: het Coreper/de Raad

Nr. vorig doc.: 14757/08 JAI 573 COPEN 197 JUSTCIV 229

Betreft: Opleiding van rechters, aanklagers en justitieel personeel
- Informatie van het voorzitterschap:
- Uitvoering van de resolutie van de Raad van 24 oktober 2008
- Vorming van een Europees-Arabisch netwerk justitiële opleiding

De Raad en de vertegenwoordigers van de regeringen der lidstaten, in het kader van de Raad bijeen, hebben op 24 oktober 2008 een resolutie betreffende de opleiding van rechters, openbare aanklagers en justitieel personeel in de Europese Unie aangenomen (PB C 299 van 22.11.2008, blz. 1).

Ten vervolge op deze resolutie gaan hierbij, ter informatie van de delegaties, de volgende documenten:

- Een nota van het voorzitterschap over de uitvoering van de resolutie en over de Europees-Arabische conferentie inzake justitiële opleiding, die op 4 en 5 mei 2009 te Amman in Jordanië is gehouden op initiatief van het Tsjechische voorzitterschap en van Frankrijk (bijlage I);

- Een verslag van de secretaris-generaal van het Europees netwerk voor justitiële opleiding (ENJO) over de uitvoering van de resolutie (bijlage II);
- de ontwerp-aanbevelingen die tijdens de bovengenoemde Europees-Arabische conferentie aan de vergadering der deelnemers zijn voorgelegd (bijlage III).

Nota van het voorzitterschap over de opleiding van rechtersA. Uitvoering van de resolutie over justitiële opleiding in de EU

I. Inleiding

1. De Raad en de vertegenwoordigers van de regeringen der lidstaten, in het kader van de Raad bijeen, hebben op 24 oktober 2008 de resolutie betreffende de opleiding van rechters, openbare aanklagers en justitieel personeel in de Europese Unie aangenomen¹.
2. Het initiatief ertoe was mede genomen door de Tsjechische Republiek, die het belang van deze problematiek immers onderkent en sterk benadrukt. De doelgroep van de resolutie wordt gevormd door rechters, openbare aanklagers en justitieel personeel (zoals assistenten, bedienden en griffiers). In de resolutie worden richtsnoeren ter verwezenlijking van bepaalde algemene doelstellingen gegeven. De toepassing van de richtsnoeren door de lidstaten van de EU geschiedt op basis van vrijwilligheid.

II. Uitvoering

1. Volgens de punten 4 en 5 van de resolutie dienen het Europees netwerk voor justitiële opleiding (ENJO) en zijn leden een belangrijke rol te spelen bij de praktische toepassing van de richtsnoeren, en de inhoud van gemeenschappelijke Europese opleidingsprogramma's moeten vaststellen. In punt 8 wordt het voorzitterschap verzocht de nodige contacten met de Europese opleidingsorganisaties te leggen, met het oog op een spoedige uitvoering van de resolutie.
2. Het Tsjechische voorzitterschap brengt de lidstaten bij dezen op de hoogte van de besprekingen die met de vertegenwoordigers van het ENJO zijn gehouden over de stand van zaken; de gemeenschappelijke Europese opleidingsprogramma's moeten immers door het ENJO worden vastgesteld (...). De uitvoering van de programma's zal in handen liggen van het ENJO en/of zijn leden (de nationale opleidingsinstituten).

¹ Doc. 14757/08 JAI 573 COPEN 197 JUSTCIV 229.

3. Een verslag van de secretaris-generaal van het ENJO aan het Tsjechische voorzitterschap over de uitvoering van de resolutie staat in bijlage II. Ondanks het grote aantal opleidingen die het organiseert, heeft het ENJO met financiële moeilijkheden te kampen.
4. Sinds de resolutie is aangenomen, tracht het netwerk een leerplan samen te stellen aan de hand van wat, volgens zijn leden, Europese rechters en aanklagers aan kennis zouden moeten bezitten. De leerplannen "Opleiders opleiden" en "Burgerlijk recht" zullen in juni 2009 in Praag door de algemene vergadering van het ENJO worden aangenomen.
5. In punt 6 van de resolutie wordt de lidstaten verzocht de nodige maatregelen te nemen opdat de leden van het ENJO het bedrag van hun financiële bijdrage aan het ENJO kunnen optrekken. Volgens het verslag van het ENJO zijn echter door de financiële crisis niet veel landen daar toe in staat. Het doel moet echter worden gehandhaafd.
6. Het ENJO verheugt zich over de steun en de ideeën die het van de lidstaten ontvangt met het oog op de uitvoering van de resolutie, ook wat de financiële vraagstukken betreft.
7. Het Tsjechische voorzitterschap heeft met de secretaris-generaal van het ENJO overleg gepleegd over enkele voorstellen inzake de wijze waarop de resolutie zou kunnen worden uitgevoerd, bijvoorbeeld door middel van een opleidingsportaal of scholing inzake digitale middelen voor justitieel gebruik.
8. Het Tsjechische voorzitterschap brengt de desbetreffende ontwikkelingen en het verslag van het ENJO onder de aandacht van het Coreper en de Raad; het wenst het ENJO aan te moedigen tot verdere activiteit en interne samenwerking, en de Europese Commissie aan te sporen om verdere ondersteuning van justitiële opleidingen in overweging te nemen.

B. Informatie over de Europees-Arabische conferentie inzake justitiële opleiding

De Europees-Arabische conferentie inzake justitiële opleiding heeft plaatsgevonden op 4 en 5 mei 2009 te Amman in Jordanië, op initiatief van het Tsjechische voorzitterschap en van Frankrijk. Vertegenwoordigers van de lidstaten van de EU namen er met vertegenwoordigers van derde landen uit de Arabische wereld deel aan besprekingen over de vraag hoe gemeenschappelijke justitiële opleiding een gemeenschappelijke justitiële cultuur en onderling vertrouwen tot stand kan helpen brengen.

I. Initiatief - Europees-Arabisch netwerk justitiële opleiding

1. De deelnemers besloten gezamenlijk een initiatief op te zetten, namelijk het "Europees-Arabisch netwerk justitiële opleiding" (Euro-Arab Judicial Training Network - EAJTN), dat zou worden belichaamd in een te Amman in Jordanië gevestigde instantie.
2. Het EAJTN zou regelmatige contacten, bijeenkomsten en wederzijdse assistentie aanmoedigen tussen de nationale scholen en instituten die specifiek met de opleiding van rechters en aanklagers in de deelnemende landen zijn belast, en gaandeweg zorgen voor gemeenschappelijke leerplannen en leermiddelen; hoe het netwerk zou functioneren wordt in de bijlage beschreven.
3. Ter informatie gaan in bijlage III de ontwerp-aanbevelingen die aan de conferentie zijn voorgelegd. De deelnemende staten is verzocht hun opmerkingen dienaangaande in te zenden; deze worden momenteel door Frankrijk en Jordanië (de initiatieflanden) verwerkt.

II. Voorlopig stuurcomité

1. Om het initiatief op dreef te helpen, zou een voorlopig stuurcomité worden opgericht; de samenstelling ervan - door Frankrijk voorgesteld en door de deelnemers aan de conferentie besproken - zou er als volgt uitzien:
 - de directeur van de Franse Ecole Nationale de la Magistrature, dan wel zijn of haar vertegenwoordiger;
 - de directeur van het justitieel instituut van Jordanië, dan wel zijn of haar vertegenwoordiger;
 - de directeur, dan wel zijn of haar vertegenwoordiger, van drie nationale instituten voor justitiële opleiding uit de Europese Unie (Hongarije, Griekenland en Spanje);
 - de directeur, dan wel zijn of haar vertegenwoordiger, van de justitiële opleidingsinstituten van drie Arabische landen (Algerije, Libanon en Qatar);
 - de regionale attaché voor justitiële samenwerking, met standplaats bij de Franse ambassade te Amman in Jordanië.

2. Het voorlopige stuurcomité is ermee belast, op basis van een akkoord tussen alle aan het netwerk deelnemende staten, een permanent stuurcomité in te stellen. Het permanent stuurcomité zal dus een ontwerp-statuut betreffende het EAJTN opstellen, dat aan alle betrokken justitiële instituten ter goedkeuring wordt voorgelegd.

3. Het Coreper en de Raad wordt verzocht nota te nemen van de stand van zaken. De lidstaten kunnen hun opmerkingen aan het voorzitterschap doen toekomen.

Report from the EJTN Secretary General**The implementation of the Resolution on Judicial Training of 24 October 2008**

1. The Resolution on Judicial Training passed by the meeting in Luxembourg on 24 October 2008 represented a seed change in expectations of the part to be played in bringing about Europe-wide judicial training in European Law expected of the European Judicial Training Network (“EJTN”).
2. I assumed my mandate on 13 March 2008 in succession to my French predecessor and almost at once became aware of the terms of the then draft Resolution and thereafter worked with the French representatives to ensure that the possibilities enshrined within this welcome initiative succeeded and were maximised. EJTN was invited to speak at the Conference in Judicial Training held in Bordeaux in July 2008 and also to lead an afternoon-long workshop.
3. From being a member of EJTN since 2003 I was aware that the Network had, on occasions, been put under pressure by the Commission to increase its membership fees. The new members which acceded to the Union in 2004 were granted a concessionary rate for a short period of €1,000 while the fees for the four countries with the biggest GDPs were set at €20,000. The original Steering Committee proposal for a minimum fee was €5,000. These are/were contributions towards the administrative costs of the Network. The Network is/was required to contribute 30% of these costs by the Commission who in their turn contributed the additional 70%. Additional projects were separately funded but again in the proportion of 30%:70%.

4. From my acquaintance with the affairs of EJTN as a member of the Steering Committee while I was Director of Studies of the Judicial Studies Board of England and Wales, I was also aware that there was a marked reluctance in many of the schools in membership to pay increased contributions which would take the total of their 30% share of the operational budget above c €160,000. The maximum Commission grant thus obtainable was in the region of €350,000. This was the entire sum available to run the operational side of the Network including paying its full-time employees in Brussels and to run all its Working Groups, Sub-Groups and pay all other costs. It was inadequate for the purpose. Pressure by the Commission to increase the administrative staff was acceded to without there being any increase in the budget.
5. Whenever the issue of finance was put to the schools the repeated complaint was that they themselves did not have the resources with which to contribute any additional sums to the Network in order for the work to be expanded. An ambitious Strategic Plan covering 2007-2013 was drawn by the membership after long debates about what was possible but always on the premise that it could be afforded. Meanwhile, in 2007 the Network embarked upon its work of drawing a curriculum based upon its members' perception of what should be known by European judges and prosecutors. Much of this work was completed by June 2008 and was placed before the General Assembly for approval at Ljubljana in June 2008. Additional work has been done on the Training the Trainers curriculum and on the Civil Law curriculum and this will be put to the Prague General Assembly in June 2009. This was existing work of the Network following the long-term plan referred to above.
6. It appeared to the Network that the Resolution of the French Presidency would give a much needed impetus to the work of the Network and enable its operations, expanded greatly since March 2009 to include seminars, workshops and e-learning piloting, to flourish. Not only was there a need to bring the level of fees up to a level that would enable the then existing work to be funded and expanded but also to enable the much increased workload brought about by the passing of the French Presidency Resolution to be undertaken in an efficient and timely manner.

Our plans included a greatly expanded Exchange Programme for Judicial Authorities (which enables judges and prosecutors to spend between two weeks and twelve months in other parts of the European judicial system) and an enhanced catalogue (whereby members of the Network open various courses, currently around two hundred, to other members and to members of the Council of Europe judiciaries).

7. The Network was greatly heartened by the unanimous passage of the French Presidency Resolution in October 2008 where the member states of the Union committed themselves to support the EJTN in its endeavours to bring about an improvement to the judicial training offered to European judges and prosecutors and to assist by setting and introducing draft curricula in various subjects to national schools. Further, we looked forward to working with national schools in bringing about an improved culture based upon a common European judicial area and to foster the trust that ought to exist between judicial authorities across Europe.

8. Various financial matters of an historical nature surfaced in September 2008 which have taken a great deal of time and energy to resolve and have involved the whole Network. The net effect of the problems has been the establishment of greatly improved financial structures and a real determination to move forward as quickly as possible across a broad front of European judicial training. Part of the resolution of the financial problems has been for many of the member states to agree an increased contribution to the Network which allows for an operating budget which has been pared down as much as possible to about €1 million. Some states have yet to answer and some have indicated that they are not in a position to pay the minimum fee that was set at a level of €8,000 for which they would have in return many training activities for their judges and prosecutors presented to them thereby alleviating their national schools from the task of undertaken that which was provided. One member has indicated that it cannot afford to pay anything this year by way of a fee. Its previous fee was €1,000. Another has indicated that it cannot pay more than €1,000. Others have indicated that their maximum contribution is one half of that set by the Extraordinary General Assembly in Berlin in February 2009 (€8,000). Further sums are required to deal with past historical debts of the Network and to establish a contingency fund for the future. There is considerable disparity in the members' reaction to these requirements.

9. The Network is very grateful to the Czech Presidency and the upcoming Swedish Presidency for their support of the French Presidency Resolution. The work that is required under the Resolution is additional to much of that which we are already undertaking and as such has a cost to it. I intend to ask the Working Group “Programmes” to establish a sub group to consider furthering the work that is evident under the French Presidency resolution. In the meantime the Network would be extremely grateful for clarification of whether the expression of support given on 24 October 2008 includes a level of financial support from member states to their national schools to enable the schools to pay membership fees to the Network commensurate with the work not only required under the Resolution but otherwise. We are very keen to commence further work in this regard as soon as possible.

Judge Victor Hall

Secretary General EJTN

Brussels May 2009

DRAFT RECOMMENDATIONS

(PRESENTED TO THE ASSEMBLY OF PARTICIPANTS TO THE EURO-ARAB CONFERENCE IN
AMMAN-JORDAN, 4-5 MAY 2009)

Whereas the Resolution of the Council of the European Union and of the representatives of the Governments of the Member States meeting within the Council on the training of judges, prosecutors and judicial staff in the European Union adopted on the 22nd of November 2008;

Whereas the Charter adopted in Copenhagen by the General Assembly of the European Judicial Training Network of the 6th of December 2002;

Whereas the recommendations of the First Conference on Justice entitled « the Quality of Justice » which took place in Doha on the 12th and 13th of October 2004;

Whereas the recommendations of the second Conference on Justice entitled « the separation of powers, the independence of justice and the role of the Public Prosecution in strengthening the Rule of law » which took place in Doha on the 27th and 28th of April 2008;

The participating states to the Euro-Arab conference on judicial training held in Amman-Jordan on 04-05 may 2009;

Recalling their commitment to an impartial, efficient, independent and fair judicial system taking into account the specificity and the legal and cultural traditions of each country;

Considering that the good functioning of a Euro-Arab "espace juridique" requires that judges and prosecutors have a good knowledge of the legal and judicial systems of each of the participating states and of the national and international co-operation tools, and in addition, requires mutual confidence between the judicial actors;

That the training of judges and prosecutors is an essential tool for encouraging this knowledge which shall cover all the legal field, civil as well as criminal and any other legal topics;

That the implementation of regular training sessions for judges and prosecutors will enable the progressive development of a common judicial culture and mutual confidence.

The responsible of the judicial training institutions in the participating states express their agreement for:

- 1) Launching a joint initiative entitled « Euro-Arab Judicial Training Network » (E.A.J.T.N) which is an organ based in Amman in Jordan whose aim is to encourage regular contacts, meetings and mutual assistance between the national schools and institutes specifically in charge of the training of judges and prosecutors in the participating states, and to progressively elaborate common training curricula and tools;
- 2) Stating that the E.A.J.T.N shall be composed of Institutes specifically dedicated to the judicial training, taking into consideration the rules, the legal traditions and the internal organisation of each participating state; if they are interested in judicial training topics, the international organisations might be invited as observers in the E.A.J.T.N. meetings;
- 3) Stating that the E.A.J.T.N shall be located in a “Support Unit”, to be created within the Judicial Institute of Jordan, which shall be responsible for organising the Network’s meetings and other activities.
- 4) Foreseeing that one contact point shall be established in each participating state according to its internal regulations and competences, in paying attention to the complete representation of the vocational judicial training provided by each participating state.

- 5) Deciding that the main goals of the E.A.J.T.N are:
- To increase the mutual knowledge of the judicial systems;
 - To improve the exchange of national and international co-operation tools;
 - To share professional experiences and exchange on best practices;
 - To provide mutual assistance in the implementation and the reform or improvement of the Judicial Training Institutions;
 - To facilitate the co-ordination between the various training curricula developed by each participating state;
 - To develop common judicial training activities.
- 6) Stating that the main tools to reach the targeted goals shall be training activities encouraging:
- Knowledge of participating states judicial systems and modalities for cooperation;
 - The organisation of internships and exchanges;
 - The development of training curricula for the Judicial Body Members and trainers;
 - Direct contacts between judicial actors;
 - Knowledge and understanding of the principles of independence, competence, efficiency and integrity.
- 7) Foreseeing that the E.A.J.T.N will organise regular meetings, at least once a year and on the territory of each participating state in turn, in order to:
- Allow the contact persons to know each other and to share their experiences, especially related to the management of Judicial Training implemented in each participating state;
 - Offer a platform for discussion of matters related to the practical and legal difficulties met by the participating states within the framework of the Network;
 - Synthesize the accumulated experience in order to share it with the General Permanent Secretary of the Doha Conference and to use it as the ground of debates concerning initiatives to be undertaken within the Doha process.

The E.A.J.T.N shall be also able to meet at any time, on a ad ‘hoc basis, upon the needs expressed by the Participating States.

8) Establishing an interim Steering Committee composed of:

- The Director of the French Ecole Nationale de la Magistrature or his/her representative;
- The Director of the Judicial Institute of Jordan or his/her representative;
- The Director or his/her representative of three of the European Union Member States' Judicial Training Institutes (Hungary, Greece and Spain);
- The Director or his/her representative of two of the Arab Countries' Judicial Training Institutes (Algeria, Lebanon and Qatar);
- The regional attaché of cooperation for Justice, based at the French Embassy in Amman-Jordan.

The Steering Committee shall be responsible to draft the status and rules of the E.A.J.T.N to be adopted by all the concerned judicial institutes.
