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**Workshop session 2 Workshop B : The rôle of international liaison prosecutors**

Thank you, dear Nicola, for your kind words.

I am very pleased to present in the framework of this workshop the role of the liaison magistrates.

Indeed, the liaison magistrates can be considered as being very helpful for improving the mutual assistance and the mutual knowledge between the judicial systems of two countries.

Historically, the first experience of the liaison magistrate has been done in 1993 between France and Italy in a specific context.

At that time, Italy was fighting against terrorism and against the mafia, Cosa Nostra. Some Italian judges were particularly involved in that fight and one of them, Giovanni FALCONE, pointed out the poor cooperation between countries which were linked by democracy and by the project of the EU, the lack of confidence between the judicial systems, the lack of knowledge of the judges and the prosecutors about foreign judicial systems, the lack of relationships between responsibles who have however to cooperate together. This statement was shared at that time by many countries and in particular, by the French authorities.

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When the judge Giovani FALCONE was murdered by Cosa Nostra, that created a trauma in Italy and in many European countries, among political and judicial authorities. It was not possible to do nothing... and among all the initiatives which have been taken at that time, the idea to exchange a magistrate between France and Italy has been implemented. Consequently, it was decided to appoint a French liaison magistrate in Roma and an Italian one in Paris.

This context of the creation of the liaison magistrate is important because it has been done on a very pragmatic way and for answering to basic needs expressed by profesionals, judges, prosecutors, police officers, all these actors working on the ground in concrete files.

The success of this first experience has encouraged France to develop its network of liaison magistrates so as to have today the highest number of liaison magistrates in the world (18) with 10 foreign liaison magistrates being hosted in the ministry of justice in Paris..

At the begining, the strategy has been to focus the liaison magistrates on EU countries were the needs of cooperation were important (The Netherlands in 1996, Spain in 1997, Germany in 1998 and the UK in 1999) or on EU candidate countries (Czech Republic in 1999).

That remains true today (with exchanges of liaison magistrates with Romania in 2012). But very quickly, the idea arose to extend this experience of liaison magistrates to other parts of the world where needs of cooperation are important: USA, Canada, Algeria, Marocco, China, Turkey, Russia... In the last years, liaison magistrates have been appointed in countries where a close cooperation is required at a regional level for fighting the organised crime (Serbia and the balkans in 2012), terrorism (Belgium in 2016).

Nowadays, only 7 of the 18 French liaison magistrates are working in a Member States of the EU. The majority (11) has been appointed in non-EU countries, in other countries of the world.

In a first point, I will explain the missions of the liaison magistrate (1), then speak about the status (2) and finally, make a short assesment of the contribution of the liaison magistrates in the improvment of mutual assistance (3).

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* 1. **1. The missions of the liaison magistrates**

- to facilitate the bilateral relationships in judicial matters between France and the country where he/she is appointed: in general, the liaison magistrate has an office both in the ministry of justice of the country which hosts him and in the French embassy in this country. So it is easier for him to create contacts useful for planning bilateral objectives and initiatives (visit of the Minister, signature of agreements, organisation of conferences...).

- to help French judges and prosecutors to get the highest level of assistance of the local authorities for completing their request (follow up of the execution of the rogatory letters, of the extraditional procedures...). This assistance is provided in criminal and as well in civil and commercial matters. The 1996 Joint Action already mentionned insists on 2 points: 1° to encourage and to accelerate all forms of judicial cooperation 2° to establish direct links between the judicial authorities.

- to realize at the request of the French ministry of justice and as well of the local authorities (judicial authorities, ministry of justice) studies about some points of law or caselaw in order to provide information about what exists in the other country or to compair the two systems (i.e concerning the policy designed by the authorities for fighting against drug trafiking, about the rights provided to the victime in some circumstances...).

- to assist the French consul in some situations in particular when the French judicial authorities are concerned.

* 1. **2. The status of the liaison magistrates**

From the beginning, the status of the liaison magistrates is discussed between the States which are interested and basically, it is a matter of the ministry of justice in cooperation with the ministry of foreign affairs.

Indeed, to decide to appoint a liaison magistrate is both a political and a technical decision :

* a political decision which must be in compliance with the policy of the two States to reinforce their cooperation. That is why the liaison magistrate will have an office in the French embassy of the country where he/she is appointed and will be placed under the authority of the ambassador, with respect of his/her status of member of the judiciary.

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* a technical decision as well: there must be a sufficient flow of cases between the two countries and technical difficulties to solve. In the last years, the idea has been as well to appoint a liaison magistrate for working not only in a single country but in two countries (i.e Italy and Malta, China and Japan...) or in several countries which are part of a region (i.e Senegal and few countries of West Africa, Serbia and several countries of the balkans...). Today, 10 liaison magistrates have a single country competence and 8 a double countries or regional competence. As a consequence : our 18 liaison magistrates doesn't have close relationships with judicial authorities of 18 countries but they have such relationships with 42 countries, in Europe, in Africa, in Asia and in America. That is why the liaison magistrate will have as well an office, his/her main office, in the ministry of justice of the country where he/she is appointed.

After having decided to appoint a liaison magistrate, the ministry of justice has to find the ideal candidate.

The ideal candidate is:

* a French judge or prosecutor : as you know, in France, both the prosecutors and the judges to the court are members of the judiciary. Among the colleagues who have been appointed as liaison magistrates, the majority of them are coming from the prosecution services but some of them are coming from the bench as sitting judges. Despite of the characteristics of the French organisation, this situation is logical because the missions of the liaison magistrate are not only in criminal matters. They are as well in civil and commercial matters. So that is logical to recruit the liaison magistrates both in the prosecution services and in the bench.
* a man or a woman
* with between 10 and 20 years in the judiciary, speaking the language of the country in which he/she well be appointed (at least speaking English if another language than French is spoken in the country), knowing well the French judicial system and the law in civil and criminal matters, knowing as well the rules of the mutual assistance, able to manage funds (for recruiting an assistant if not provided by the country where he/she is appointed, for organising conferences and seminars..)

Applications are received by the ministry of justice and the minister to the end appoint the colleague.

The support of the EU has been afforded with the Joint action of 22 April 1996 adopted by the Council which has provided a flexible framework for the exchange of liaison magistrates.

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 3. Assesment

What is the assessment made concerning the liaison magistrates : did they have fullfilled their objectives? Did the mutual assistance and more globaly the international cooperation be improved by them?

The answer to these 2 questions is without no doubt : yes.

* First: being located in the ministry of justice of the country in which they are appointed, being permanently in contact with the judicial authorities of their country, being well informed about the cooperation thanks to the links with their Embassy, they have a lot of keys for creating a climate of trust between judicial authorities of different countries which is very helpful for improving the international cooperation. The idea is that we cannot cooperate if we have not sufficient knowledge, sufficient will and sufficient confidence.
* Second: liaison magistrates are basically judges or prosecutors. So they know how things work in the judiciary for applying the rule of law, they identify very quickly which contact can be useful... and they work daily on the ground: one day assisting a judge of his/her country who comes in order to oversee how his/her request is executed by the local authority, another day answering to the local authorities about a point of his/her national law...
* Third: the flexibility of the tool itself (I have explaines all its evolutions, single country, regional competence, EU, non EU...) and of the colleagues: it is not the same job to be liaison magistrate in Spain and in Russia or in China... Not for political or climatic reasons... but simply, because the work to do is different!

This very positive assessment dosen't mean in my mind that the other structures (ministries, Networks...) are not useful as well. But the liaison magistrate is complementory to these structures and because he/she is very close to the cases, his/her imput is very important.

I stop here. I know that Jacques LEMIRE who has been Canadian liaison magistrate will speak. That will be interesting for me, for us, to have his opinion about all of that.

Thank you for your attention.

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