Minutes of the General Assembly of Association of European Administrative Judges, Helsinki, 6th June 2014

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Apologies for absence and proxies:

- Ms Edith ZELLER was given proxy to represent the Ukrainian members Ms Oksana ANDRUSENKO and Ms Nathalia BLAZHIVSKA as well as proxy to represent the Luxemburg Association of Administrative Judges.
- Mr Pierre VINCENT has proxy to represent the Polish member Jacek Chlebny
- Mr Werner HEERMANN has proxy from the Association of Judges of Specialized Courts of the Republic of Azerbaijan
- Ms Rosa PERNA has proxy from the Spanish member, Ms Marta Lopes Velasques
- Ms Aiste MEDELIENE is representing the Association of Judges, Division of Judges of the Administrative Courts, of Lithuania

The participants are welcomed by the presiding President, Mr Heinrich ZENS, who also opens the General Assembly.

1. Report of President Heinrich Zens and Report of Secretary-General Edith Zeller:

Report of President Heinrich Zens:

Before giving the report President Heinrich ZENS states that the necessary quorum of more than half of the member states is met and he expresses his deep thanks to Ms Hannele KLEMETTINEN for having organized the meeting and General Assembly.

The President gives his report to the General Assembly, briefly pointing out the board activities since the last meeting of the General Assembly in Utrecht in 2013. He once again expresses his thanks to Theo SIMONS for having organized the last General Assembly.

Special mention is given to the several meetings, mainly of the different working groups, which took place since the last meeting of the General Assembly:

- From 6th to 8th June 2013 the German Verwaltungsrichtertag took place in Münster, in the course of which AEAJ organized a roundtable discussion on "Judicial Ethics". The president expresses his warm thanks to Ted ADELSWÄRD for his well-founded speech. AEAJ also held a meeting of the working group "Independence and Efficiency" on the topic of "Legal remedies and compensation in case of long lasting procedures", organized by the co-chairs, Vice-President Annika SANDSTRÖM and Vice-President Bernard EVEN, at the seat of the Administrative Court in Münster. The President again thanks the German Association (BDVR) for enabling the participation at the German Verwaltungsrichtertag and Ralf HÖHNE for organizing the working group meeting at the Administrative Court in Münster.
- On 13th and 14th June 2013 a seminar on access to justice, among others on tools to handle conflicts of different legal sources of different origin, was organized together with the

Romanian NIM in Eforie, Romania, where President Heinrich ZENS and Secretary-General Edith ZELLER were trainers.

- The working group "Environmental Law" held its annual workshop in Dublin on 13th
 September 2013 in cooperation with the Irish Centre for European Law. The subject was "Remedies against Public Authorities for Breach of EU Law and the ECHR".
- The working group "Asylum and Immigration" held its meeting in Split from 19th to 20th September 2013. This was the first working group meeting in Croatia. The President expresses his warm thanks to President Ante GALIC and to Fedora LOVRICEVIC STOJANOVIC for having organized the meeting perfectly.
- The working group on taxation matters met in Athens from 26th to 27th September 2013 at the premises of the Court of Audit. The President expresses his gratitude to Ms Aiste MEDELIENE for having organized the meeting as well as to Mr Panagiotis DANIAS and Ms Marilena EIRINAKI.
- On 28th March 2014 there was a board meeting in Naples. The President again thanks Mr Gianmario PALLIGGIANO and Mr Giovanni TULUMELLO for having organized the meeting.
- On 13th and 14th May 2014 a seminar on access to justice, among other topics on tools to handle conflicts of different legal sources of different origin, was organized together with the Romanian National Institute of Magistracy (NIM) in Bucharest. Unfortunately there was little participation of AEAJ members, the fact that parts of the costs were covered by NIM.
- Furthermore on 26th and 27th May 2014 AEAJ held a workshop on environmental matters, organized together with the Romanian NIM in Bucharest.

Apart from these events, AEAJ had a co-operation with the University Institute in Florence (EUI). On the basis of an EU-project (dealing with questions of judicial co-operation in Europe combined with possible conflicts of norms/legal regimes, in which AEAJ had been co-applicant as associated partner of EUI) 3 seminars took place in Florence in May and October 2013 as well as in January 2014 concerning "non-discrimination", "fair trial" and "freedom of expression". The President explaines that 10 AEAJ-members per conference could have attended the meetings, with costs covered by EUI and the EU project, but unfortunately hardly anybody of AEAJ attended the conferences. There had not been enough nominations, so the Board asked colleagues directly. The President informes that one of the results of this EU-project is a handbook, on a highly scientific level and well-founded, it contains also examples of jurisdictional cooperation. President Heinrich ZENS and Secretary-General Edith ZELLER attended the final conference in the course of this EU-project with EUI in Florence 8th and 9th May 2014 as speakers.

Another application for funding has been made by EUI and AEAJ again as associated partner for a new project about judicial co-operation. Conditions for AEAJ would be the same as for the last project.

He also reports that the European Commission wants to have a co-operation between European networks, AEAJ would need to find its place there.

EJTN is about to propose a contract for a partnership with AEAJ and some more other European networks relevant in the area of judicial training.

Furthermore the President describes the current situation: No funding opportunities of the European Commission for 2013 were gained. The expert opinion stated that in principle we were eligible for funding in case of sufficient EU budget for 2013. It turned out that there was not enough budget. Furthermore, it criticised that the proposed AEAJ budget was not elaborated well enough, e.g. it was not planned in advance for each individual participant. In addition we need a better evaluation system.

As a consequence each working group will receive a lump sum of EUR 2.500.-, the chairs will be responsible for the distribution to participants.

The president thanks all Vice-Presidents, the chairs of the working groups, the Treasurer and the Secretary-General for their work.

Special thanks are expressed to Vice-President Giovanni TULUMELLO, who could not participate at the General Assembly due to his obligations in the Italian Council for Administrative Judiciary. Due to his obligations, deriving from this function, his tenure as administrative judge, his functions in the European Association VERDIF and in his national judges association, he declared to resign. Warm thanks are expressed for his work for AEAJ.

Report of Secretary-General Edith Zeller:

The Secretary-General Edith ZELLER summarizes the results of different contacts and meetings she had in November 2013 with different representatives (mainly) from DG Justice on questions of funding opportunities and future funding structures of EC: Funding by the European Commission was difficult to get for 2014, EJTN was recognized as special partner for the European Commission in the area of "judicial training programmes". Special mention is given to the fact that AEAJ with its networking components and existing networks has a big asset in this field.

The new framework program for funding was outlined by representatives of EC, DG Justice, which will be based on two blocks, namely "Funding programs for Judicial Training" (DG Justice has already contracted with EJTN) and "Fundamental Rights, Citizenship and Discrimination".

From 2015 onwards, DG Justice will try to publish the new calls for proposals very early in the year. They are aware of the problems resulting in late publications of calls for the ongoing financial year. Furthermore special mention was given to a new project concerning administrative law (for more information visit: <u>http://www.reneual.eu</u>).

Regarding the weak "monitoring and evaluation" system, advice was given to have evaluation papers after each WG meeting.

2. Reports of the Vice-Presidents:

Report of Vice-President Annika Sandström:

The Vice-President thanks the President and – referring to the President's report, she notes that in the course of the last General Assembly she assisted in the preparation of the conference on "An effective remedy in administrative cases: the principle of finality", taking place on 24th May 2013 as well as in the preparation of the workshop on "judicial ethics" in Münster from 5th to 7th June 2013.

She also referres to the Swedish cooperation with Russian judges in the area of fundamental rights. In the course of this bilateral co-operation, she attended a workshop on "judicial ethics" in St. Petersbourg. She also attended the working group meeting "Taxation Law" in Athens last September as well as the board meeting in Naples.

Regarding the meeting of the working group "Independence and Efficiency" in Manchester this year, the meeting will take place on 19th June afternoon. On Friday, 20th of June, the joint AEAJ/UK Association of Women Lawyers seminar will take place on "judgement writing" from the citizens' perspective. Bernard McClosky will organize the meeting.

Report of Vice-President Bernard Even:

The Vice-President, as co-chair of the working group "Independence and Efficiency", firstly reports on the conference, which took place on 24th May 2013 on "An effective remedy in administrative cases: the principle of finality". He also prepared the working group meeting in Münster on "legal remedies and compensation in case of long lasting procedures", he also gave a presentation of the French system in the course of the workshop on "judicial ethics" in Münster. Furthermore he attended a seminar on telecommunication law in the EU.

He also refers to the next working group meeting in Manchester, pointing out that this topic is gaining more importance in France, making it easier to compare the work of judges. Despite the same rules being implemented, judgements are written differently.

Report of Vice-President Holger Böhmann:

He participated as representative of the German Association, BDVR, at a conference in Kazakhstan in June 2013 and represented AEAJ there. The main topic was "Importance of work of judges associations".

The working group "Asylum and Immigration" met in Split, 19th and 20th September 2013; among others a representative of EASO gave a presentation. The main topics were EU-citizenship, religious freedom and fundamental rights in the field of asylum.

He reports about the AEAJ-cooperation with EASO, developing a manual for judges training. There were already 3 meetings concerning Art. 15c of the Qualification Directive. The co-operation was

very demanding because of the frequent meetings, at which mainly the French colleague Marie-Cecile MOULIN-ZYS represented us. Future co-operations on European level need to be evaluated on the basis of the abilities of AEAJ.

The working group will meet in Nice from 25th to 26th Sept. this year. A follow up on the directives in asylum law might be one of the topics.

3. Reports of the working group chairs:

Report of the chair of the working group "Environmental Law", Werner Heermann:

The working group held its annual workshop in Dublin on 13th September 2013 in cooperation with the Irish Centre for European Law. The subject was "Remedies against Public Authorities for Breach of EU Law and the ECHR" with a focus on remedies for breach of EU environmental law and failure to act.

Again the working group organised a workshop in cooperation with NIM in Bucharest in the end of May this year. The workshop was dedicated to "Remedies against failure to act of an administrative authority", "Reopening of administrative procedures" and "Alternative dispute resolutions in the administrative lawsuit" with focus on environmental matters. AEAJ sent 4 speakers and 2 further participants.

Furthermore the working group members Anders Bengtsson and René Seerden attended the EUFJE (EU Forum of Judges for the Environment) conference in Vienna end of November 2013. The subject of the conference was "Access to justice in matters of environmental law".

Twelve working group members attended the meeting of the "Aarhus Convention Commission expert group for national judges" in Brussels on 11th October 2013.

The Academy of European Law (ERA) is the new contract partner of the Commission replacing EIPA. The new co-chair Anders Bengtsson is member of the steering committee for this programme. In this programme ERA held workshops on "Industrial emissions" and regarding "Interaction between environmental impact assessment and the nature directives". Two working group members acted as speakers in these workshops. Three workshops will be held this year on "Participatory and Procedural Rights in Environmental Matters".

Furthermore three working group members were nominated as speakers for the EJTN seminar in Lisbon dealing with "Access to Courts in Environmental Law Matters".

The next working group meeting will take place on 23rd and 24th of October 2014 in Seville in cooperation with the "Consejo General del Poder Judicial", the University of Seville and the European Commission (Joint Research Centre Institute for Prospective Technological Studies, located Seville). The subject will be "Industrial emissions and the IED-directive".

The working group is already planning a follow up workshop in Romania in cooperation with NIM next year.

Next year the working group intends to hold a workshop in Bulgaria, either as the annual working group meeting or as a seminar with focus on training of Bulgarian judges (according to the "Romanian model").

The co-chair of the working group on environmental matters, Anders Bengtsson (Sweden), introduces himself, reporting about his specific activities in the field of environmental law and his expertise.

Report of the co-chair of the working group "Taxation law", Aiste Medeliene:

The co-chair reports on the last meeting of the working group in Athens, which was very fruitful and she expresses her thanks to the Marilena EIRINAKI, who organised the meeting, to President Heinrich ZENS and to all speakers.

The next working group meeting will take place in Sevilla on 23rd and 24th October (at the same time as the working group "Environmental law").

She further notes that a conference on tax litigation took place in Vilnius. Furthermore, Rosa PERNA prepared well-founded comments on an EU draft legislation regarding the Common Consolidated Corporate Tax Base (CCCTB) scheme on behalf of the working group and AEAJ.

4. Report of the Exclusive Correspondent with the Council of Europe, Pierre Vincent:

The Exclusive Correspondent reports on the activities within the Council of Europe, stressing the importance of co-operation with the Council of Europe, especially its activities with respect to administrative law, there are strong links between the Council of Europe and the AEAJ.

Among other things he draws attention to last year's program of the work program of the Consultative Council of European Judges (CCJE), its meetings and its opinions. Moreover he mentions the activities and the reports from the Commission for the efficiency of justice (CEPEJ). He stresses that the opinions of CCJE are published as such, without further relevant procedural intervention possibilities by the Council of Ministers. He also reports that a new board of CCJE was elected, being now presided by a Dutch judge.

He also emphasizes the importance of CCJE to support judicial independence and the common interests of AEAJ with CCJE. Furthermore, he notes the importance of the meetings of the CEPEJ, which collects data on jurisdictions every two years. This will be increasingly in competition with the new EU-Justice Scoreboard, issued by the European Commission. This might result in future conflicts or in cooperation of these two institutions.

5. Reports concerning the actual situation of administrative judges in certain countries:

a) Greece

Panagiotis DANIAS reports recent developments concerning the remuneration of the Greek Administrative Judges. A Special Supreme Court of 3 judges, 3 lawyers and 3 Professors of Law deals with disputes on judicial salaries. This Court ruled that the cuts on judges salaries, under the 2nd Memorandum with the Troika, were against the Greek Constitution and the Greek state had to give back Greek judges the salaries they had had in July 2012, retroactively. The Court also ruled that the taxation of the judicial salaries had to be the same as the one of the Members of the Parliament compensations: 25% of the annual judicial income should be excluded from taxation. Negotiations with the Greek Government about the implementation of those judgments are on the way.

On behalf of the Greek colleagues Panagiotis DANIAS says thank you again for the AEAJ-support.

b) Slovenia

Ms Jasna SEGAN reports that the judicial system in Slovenia is under a lot of pressure due to a recent conviction of one of the leaders of a political party in a corruption case.

Because there are new elections very soon and it might happen that the political party, the leader of which was convicted and sent to prison, will win, more pressure for the judicial system in Slovenia might develop.

c) Ukraine

Secretary General Edith ZELLER reports that she visited Ms Nathalia BLAZHIVSKA in Kiew who told her about the lustration laws, leading to immediate dismissals of judges. There still is a stand-still although there is a big workload and much uncertainty among judges.

AEAJ could be a geopolitical partner for the Ukrainian judges. AEAJ-board sent already a supportletter in March 2014 and will send anotherone in June 2014. Ms Nathalia BLAZHIVSKA published them. She emphasized that it was important to show that judges from outside were watching their situation.

Appropriate lectures for Ukrainian administrative judges would be important, she said. She would be ready to prepare a conference of AEAJ in Kiew.

6. Admission of new members:

The following individual members, national organizations and changes of names of national organizations are unanimously adopted by the General Assembly:

- a) Portugal: "Association of Judges of the Administrative and Tax Jurisdiction"
- b) Austrian changes: There are now 5 national organizations:

- Verein der Richterinnen und Richter des Verwaltungsgerichtshofes (new name of the former Verein der österreichischen Verwaltungsrichter)
- Vereinigung der Finanzrichterinnen und Finanzrichter (new member)
- Vereinigung der Richter/innen des Bundesverwaltungsgerichtes (new name of the former Vereinigung der Richter/innen des Asylgerichtshofes)
- Verwaltungsrichter-Vereinigung (the former Vereinigung der Richter der unabhängigen Verwaltungssenate was dissolved, the Verwaltungsrichter-Vereinigung took over its functions)
- Verein der Finanzakademiker (no changes)

c) Individual members:

- Adriana Elena GHERASIM (Rumania)
- Marilena LULEA (Rumania)
- Pedro Marcelino RODRÍGUEZ ROSALES (Spain)
- Rafael TOLEDANO CANTERO (Spain)
- Ana Celeste CATARRILHAS DA SILVA EVANS DE CARVALHO (Portugal): If she does not want to be a member of the Portuguese association she will be accepted as an observer
- Elisa SCOTTI (Italy): She is an academic, therefore she will be observer

7. Report of the treasurer Ralf Höhne:

The treasurer Ralf Höhne reports on the budget and the calculation for the year 2013, explaining receipts and expenses.

The treasurer gives account of the financial situation of 30th December 2013, adding that the account showed a plus of 4554,58. Income in 2013 was EUR 12.070,-. Hungary has now paid. Luxembourg still has not paid the membership fees from 2012 onwards.

8. Membership fees and possible sanctions against members in delay:

The treasurer and the president remind all members that membership fees need to be paid by end of January the latest for the current year. Furthermore they note that membership fees will remain at the regular level, which is EUR 1.300.- for the bigger countries, EUR 300.- for the smaller, former Eastern European countries and EUR 30.- for individual members. Membership fees are unanimously decided to remain unchanged.

The General Assembly unanimously decides to empower the board to set the membership fee for the Portuguese "Association of Judges of the Administrative and Tax Jurisdiction" at EUR 300,-.

As the Association Luxembourgeoise des Magistrats Administratifs still has not paid the membership fees from 2012 onwards, the treasurer will write an official letter to the Association Luxembourgeoise des Magistrats Administratifs, discussing the possibility of sanctions.

9. Report of the auditors Siiri Lewis and Marja-Liisa Judström ; "Discharge" (i.e. Approval of actions) for 2013:

The auditors, Ms Siiri LEWIS and Ms Marja-Liisa JUDSTRÖM, after examining the accounts, give their reports, indicating that there was no complaint. All the accounts are in good order, the auditors congratulate the treasurer for his work. Regarding unpaid membership fees it is noted that the statutes provide the possibility of exclusion, this applies for individual members as well. Furthermore, it is noted that the membership fees for 2014 have not yet been paid by all participants. As Siiri LEWIS declares that she will resign, the president expresses his deep thanks to her for all her active work for AEAJ.

The General Assembly unanimously decides to approve the actions of the board and the treasurer as well as the auditors.

10. Decision concerning the number of board members for the next period:

Former Vice-President Giovanni TULUMELLO leaves the board, as he was and is too busy in the Italian association. Many thanks to him for all the work he has done for AEAJ.

The General Assembly unanimously decides to have 5 members on the board.

The president announces that Edith Zeller is already pre-elected, 4 board members have to be elected: Holger Böhmann, Bernard Even, Gianmario Palliggiano and Annika Sandström are candidates.

11. Election of new board members and auditors:

The General Assembly unanimously elects Hannele KLEMETTINEN and Marja-Liisa JUDSTRÖM as auditors of AEAJ.

The General Assembly unanimously elects the following board members: Annika SANDSTRÖM, Bernard EVEN, Holger BÖHMANN and Gianmario PALLIGGIANO.

Signatures:

President: Dr. Heinrich Zens Secretary-General: Dr. Edith Zeller During a short break, the newly elected board assembles and decides to elect Edith ZELLER as the new president of AEAJ, Karin WINTER will be the new Secretary-General of AEAJ and Ralf Höhne will be treasurer of AEAJ.

The new board consists of:

- President Edith Zeller, Verwaltungsgericht Wien, 1190 Vienna, Muthgasse 62, Austria, born 3rd January 1971
- Vice-President Annika Sandström, Kammarrätten i Sundsvall, Box 714, 851 21 Sundsvall, Sweden, born 13th December 1949,
- Vice-President Bernard Even, Cour administrative d'appel de Nancy, Hôtel de Fontenoy 6, Rue du Haut Bourgeois, 54035 Nancy Cedex, France, born 26th April 1958
- Vice-President Holger Böhmann, High Administrative Court of Mecklenburg-Western Pomerania, Domstraße 7, 17489 Greifswald, Germany, for the time being attached to the Ministry of Justice Mecklenburg-Western Pomerania, Puschkinstraße 19-21, 19055 Schwerin, Germany, born 13rd November 1966
- Vice-President Gianmario Palliggiano, Tribunale Amministrativo Regionale Campania, Napoli, Piazza Municipio 64, 80133, born 7th April 1964

The board is assisted by Secretary-General Karin Winter and treasurer Ralf Höhne.

The new board warmly thanks the former President Heinrich ZENS for all the work he has done for AEAJ.

12. Work program for 2014/2015:

2014

The president briefly refers to the prior reports on upcoming meetings:

- a) meeting of the working group "Independence and Efficiency" in Manchester, 19th and 20th
 June
- b) meeting of the working group "Asylum and Immigration" in Nice on 25th and 26th September
- c) meeting of the working group "Environmental Law" in Seville, 23rd and 24th October
- d) meeting of the working group "taxation law" in Seville on 23rd and 24th October

2015

- a) The working group "Independence and Efficiency" will meet in the Netherlands, as Theo SIMONS has invited AEAJ to do so. Details are yet to be discussed.
- b) The working group "Environmental Law" will meet in Bulgaria.

- c) The details for a meeting of the working group "Taxation Law" are not yet set.
- d) The meeting of the working group "Asylum and Immigration" might be in Greece.
- e) General Assembly 2015: not yet determined, details will be announced as soon as possible.
- f) Co-operation with the Romanian NIM Institute for Magistracy: In spring 2015 again two seminars, one for environmental law and one with a general topic, probably the same as last year on access to justice and problems of conflicting legal regimes, will be held in Bucarest under the same conditions as last year (which means up to 10 AEAJ-members can participate).
- g) Co-operation with EUI: The president refers to the previously mentioned issue that EUI already applied for another action grant for the follow-up-project "project on judicial co-operation in the area of non-discrimination : discrimination or hate speech on grounds of sexual orientation or race and ethnic origin". AEAJ is an associated partner. Therefore, in case the new project is approved, a similar kind of co-operation will take place. The president declares that similar conditions for participation might be fixed and she invites members to actively participate in this project.

13. Miscellanous:

The president outlines that the strengths of AEAJ as an association lie in the fact that it is a Europeanwide association of administrative judges as such with much practical judicial expertise. These strengths are also seen from the outside, especially on the European level.

The weakness of AEAJ lie in its lack of money and manpower. The time for continuous training should be deducted from the judges' workload and there is a need to get at least co-funding. The president warmly invites the members to actively participate in AEAJs programmes, as at least some of its activities were partly financed by other institutions (see above mentioned NIM co-operation and cooperation with EUI).

In this context she stresses that the contact persons of national member associations of AEAJ have a key role - not only to disseminate information, but also to actively promote and support AEAJ by ensuring that each member receives the information on upcoming meetings and by reporting national needs to AEAJ. This might also support an increase in further active participation of members.

Signatures:

President: Edith Zeller Secretary-General: Karin Winter